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CITY OF BOSTON MUNICIPAL CODE



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CITY OF BOSTON



CODE OF ORDINANCES

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City Council – 2013

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Contains local legislation current through Ord. 2012, c. 9, passed 12-28-12

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CHAPTER I

GENERAL PROVISIONS

1-1 DEFINITIONS AND RULES OF CONSTRUCTION.

a. The following rules of construction shall be observed for this and every other ordinance, unless inconsistent with the manifest intent of the City Council or the context of the ordinance:

1. The repeal of an ordinance shall not revive an ordinance in force before, or at the time when, the ordinance repealed took effect.

2. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution, or proceeding pending at the time of the repeal, for a violation of such ordinance.

3. Words importing the singular shall include the plural, words importing the plural shall include the singular, and words importing the masculine gender shall include women and boards.

4. The word "street" shall mean and include all public ways, alleys, lanes, courts, and sidewalks, and those parts of public squares and places which form travelled parts of highways.

5. The words "public grounds" shall mean and include the common and public garden, the public lands under the charge of the parks and recreation department, and those parts of public squares and places which do not form travelled parts of highways.

6. The word "owner," applied to a building or land, shall mean and include any part owner, joint owner, tenant in common, or joint tenant, of the whole or of a part of such building or land.

7. The word "tenant" or "occupant," applied to a building or land, shall mean and include any person who occupies the whole or a part of such building or land, either alone or with others.

8. The word "person" shall mean and include firms and corporations.

9. The word "officer" shall mean and include officers and boards in charge of departments and the members of such boards; and the word "subordinate" shall include all assistants, deputies, and employees appointed by an officer.

10. The words "Faneuil-Hall market" shall mean and include the lower floors, porches, and cellar of the building called "Faneuil Hall."

11. The words "Faneuil-Hall market limits" shall mean and include Faneuil-Hall market as above defined, and the territory included within the following boundary, viz.: Beginning in the northerly line of North Market Street extended, at a point thirty-five (35') feet distant westerly from the sidewalk on the easterly side of Commercial Street; thence parallel with and thirty-five (35') feet distant westerly from said sidewalk, to a line thirty-five (35') feet distant northerly from the sidewalk on the southerly side of South Market Street extended; thence by a line parallel with and thirty-five (35') feet distant northerly from said sidewalk to Merchants Row; thence diagonally across Merchants Row to the nearest point in a line twenty (20') feet distant northerly from the sidewalk on the southerly side of Faneuil Hall Square; thence by a line parallel with and twenty (20') feet outside of the sidewalk of said square and North Market Street to Merchants Row; thence diagonally across said Merchants Row to the northeast corner of said Merchants Row and North Market Street; thence by the northerly side of said North Market Street to the point of beginning; but excluding any territory which is the subject of that certain redevelopment agreement made as of May 21, 1974, by and between the Boston Redevelopment Authority and Faneuil Hall Marketplace, Inc.

12. The words "Market limits," without any words of limitation preceding them, shall mean and

include the territory bounded as follows: Beginning at the southerly corner of Atlantic Avenue and State Street; thence running west by the southerly line of State Street to India Street; thence north to the center line of State Street; thence west by the center line of State Street to the line of the curbstone on the easterly side of Commercial Street produced to the centerline of State Street; thence north by the line of the curbstone on the easterly side of Commercial Street produced to the center of State Street to a point in the curbstone on the easterly side of Commercial Street opposite the corner of said street and State Street; thence west across Commercial Street to the westerly corner of Commercial Street and State Street; thence north by the westerly line of Commercial Street to Chatham Street; thence west by the southerly line of Chatham Street and by said line produced to the westerly line of Merchants Row; thence north by the westerly line, west by the southerly line, and again north by the westerly line of Merchants Row to Faneuil Hall Square; thence west by the southerly line and north by the westerly line of Faneuil Hall Square to Dock Square; thence west by the southerly line of Dock Square to Exchange Street; thence north by the easterly line of Exchange Street produced across Dock Square; thence north by the westerly line of Dock Square and across Elm Street to the corner of Elm and Union Streets; thence north by the westerly line of Union Street to the southerly corner of Friend and Union Streets; thence east across Union Street to the corner of Union and North Streets; thence east by the northerly line and northeast by the northwesterly line of North Street to Blackstone Street; thence northwest by the southwesterly line of Blackstone Street to Haymaker Square; thence north across Blackstone Street to the corner of Cross and Blackstone Streets; thence southeast by the northeasterly line of Blackstone Street to the corner of Blackstone and North Streets; thence northeast by the northwesterly line of North Street to the northerly corner of North and Richmond Streets; thence crossing North Street, southeast by the northeasterly line and east by the northerly line of Richmond Street to the northerly corner of said street and Atlantic Avenue; thence east by the northerly line of Richmond Street produced across Atlantic Avenue to the easterly side thereof; thence south by the easterly line of Atlantic Avenue to the northerly corner of said avenue and India Wharf; thence west across Atlantic Avenue to the northerly corner of said avenue and India Street; and thence north by the westerly line of Atlantic Avenue to the point of beginning. All said Faneuil-Hall Market limits

are shown in red, and said Market limits are shown in blue, on a plan numbered L-2826 and marked: "Faneuil Hall Market Limits and Market Limits in the City of Boston, February 16, 1897, William Jackson, City Engineer," and filed in the office of the commissioner of public works; but excluding any territory which is the subject of that certain redevelopment agreement made as of May 21, 1974, by and between the Boston Redevelopment Authority and Faneuil Hall Marketplace, Inc.

13. Words purporting to give a joint authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

14. Words prohibiting anything from being done, except in accordance with a license or permit or authority from a board or officer, shall be construed as giving such board or officer power to license or permit or authorize such thing to be done.

(Para 5. Ord. 1954 c. 2 § 1; Para 9. Ord. 1953 c. 8 § 1; Para 10. Ord. 1974 c. 15 § 1; Para 11. Ord. May 18, 1866, Ord. 1974 c. 15 § 2; Para 12. St. 1896 c. 376, St. 1907 c. 584, Ord. 1954 c. 2 § 1; Ord. 1974 c. 15 § 3; Rev. Ord. 1961 c. 1 § 1; Ord. 1974 c. 15; CBC 1975 Ord. T1 § 1)

1-2 CITY SEAL AND CITY FLAG.

1-2.1 City Seal.

The seal of the City shall be circular in form, shall bear a view of the City, the motto SICUT PATRIBUS, SIT DEUS NOBIS, and the inscription, BOSTONIA CONDITA AD. 1630 CIVITATIS REGIMINE DONATA AD. 1822, as herewith shown.



(Ord. January 2, 1823; Rev. Ord. 1961 c. 1 § 5; CBC 1975 Ord. T1 § 2)

1-2.2 Municipal Standard and City Flag.

The municipal standard of the City of Boston, which is hereby established, shall be made of silk of the colors designated, namely: Continental blue and buff, and shall be five (5') feet in length and three and one-half (3½') feet in width, or in proportion thereto. Provided, that a City flag of like design and colors may be made of bunting for outdoor display, the size of such bunting flag to depend upon the place of display. The body of the standard shall be blue, as specified, with the official City seal embroidered in the center; and two (2) rings of white shall encircle the seal. The reverse of the municipal standard shall bear a representation of the Trimountain. The City flag shall have no reverse except the seal showing through the bunting, the seal to be painted on or woven in the fabric. The municipal standard shall have a fringe of Continental buff; the City flag shall be without fringe. (Ord. 1961 c. 8; Rev. Ord. 1961 c. 1 § 6; CBC 1975 Ord. T1 § 3)

1-2.3 City Colors.

The colors herein specified shall be the official colors for the City of Boston, namely: Continental blue and Continental buff. (Rev. Ord. 1961 c. 1 § 7; CBC 1975 Ord. T1 § 4)

1-2.4 Displaying Flag on City Hall and Boston Common.

The City flag shall be displayed on City Hall and may be displayed on Boston Common on occasions when the national flag is ordered displayed. (Rev. Ord. 1961 c. 1 § 8; CBC 1975 Ord. T1 § 5)

1-2.5 Further Uses of Flag.

The municipal standard of silk may be carried or displayed in parades, at reviews, and on other official occasions when the Mayor is present and when directed by him. Boston organizations may have copies of the municipal standard on approval by the Mayor. (Rev. Ord. 1961 c. 1 § 9; CBS 1975 Ord. T1, § 6)

1-2.6 Prohibitions on Use of Flag.

Neither the municipal standard nor the City flag nor any reproduction shall be used for any commercial

purpose, and no advertising device shall be placed upon it or used in connection with it; and the municipal flag or standard shall not be used for any purpose not authorized by the foregoing sections, except with the permission of the Mayor.

(Rev. Ord. 1961 c. 1 § 10; CBC 1975 Ord. T1 § 7) Penalty, see § 1-2.7

1-2.7 Penalties.

Any person violating any provision of subsection 1-2.6 shall be punished by a fine not exceeding twenty (\$20.00) dollars for each offense, and not only the person actually doing the prohibited thing, but also his employer and every other person concerned in so doing shall be punished by such fine. (Rev. Ord. 1961 c. 1 § 11; CBC 1975 Ord. T1 § 8)

1-2.8 Custodian.

The City messenger shall be custodian of the municipal standard and of the City flag. (Rev. Ord. 1961 c. 1 § 12; CBC 1975 Ord. T1 § 9)

1-3 DISPLAY OF UNITED STATES FLAG.

The United States flag shall be displayed, unless the weather is unsuitable, upon the City Hall on every day except Sunday, and upon the other public buildings and public places where flag poles are available on Franklin's Birthday, January 17; Lincoln's Birthday, February 12; Washington's Birthday, February 22; Evacuation Day, March 17; Patriots' Day, April 19; Grant's Birthday, April 27; Memorial Day, May 30; Flag Day, June 14; Bunker Hill Day, June 17; Independence Day, July 4; Labor Day, first Monday in September; anniversary of the settlement of Boston, September 17; Columbus Day, October 12; Veterans Day, November 11; and on such other days as the Mayor or the City Council may from time to time order. Whenever any of the above-named days fall on Sunday the flags shall be displayed on the following day. It shall be the duty of the assistant commissioner of real property to display the flag in accordance with this section upon the City Hall and other public buildings under his care, custody and management.

(Ord. 1944 c. 2; Ord. 1953 c. 4 § 3; Ord. 1954 c. 2 § 79; Rev. Ord. 1961 c. 1 § 13; CBC 1975 Ord. T1 § 10)

1-4 CITY AUTOMOBILES.

All automobiles owned by the City shall be registered in its name, and shall be painted a uniform distinctive color, bearing on each side the words "City of Boston" and also a designation in words showing by which department such automobiles are used; provided, however, that the automobiles of the fire department may be painted red.

No department, agency, board, or division of the City of Boston shall purchase, lease, rent or otherwise acquire any passenger automobile certified by the Environmental Protection Agency of the United States as having a city mileage rate of less than twenty-four (24) miles per gallon of gasoline. The provisions of this ordinance shall not apply to vehicles used for security, emergency and for rescue purposes. (Ord. 1909 c. 9; Rev. Ord. 1961 c. 1 § 14; CBC 1975 Ord. T1 § 11; Ord. 1980 c. 14)

1-5 CONTROL OF ROOMS IN CITY HALL.

In the City Hall the rooms used by the Mayor shall be under his control; the rooms used by the City Clerk shall be under his control; and the rooms used by the City Council shall, except as ordered by the City Council, be under the control of the president of the City Council. All rooms in the City Hall, the City Hall Annex and other public buildings, not assigned by this ordinance, may be assigned by the assistant commissioner of real property with the approval of the Mayor.

(Ord. 1954 c. 2 § 1; Rev. Ord. 1961 c. 1 § 15; CBC 1975 Ord. T1 § 12)

Cross-reference:

Ord. ss 11-7.4

1-6 PROHIBITING ADVERTISING OF NAME OF ELECTED OFFICIAL ON CITY PUBLICATIONS.

Unless expressly authorized by the Mayor and City Council the name, title, photograph or other image of any City official shall not appear on any publication, pamphlet, television or radio advertising, or advertising display of any description paid for in whole or in part from funds appropriated by the City Council or from funds requiring approval of the Council prior to expenditure.

(Ord. 1979 c. 11)

1-7 PROHIBITING USE OF WORD MAYOR IN TITLES OF PERSONS NOT SO DESIGNATED BY STATUTE.**1-7.1 Use of Title "Mayor."**

No person in the City service or employ, other than the lawfully elected Mayor and the Acting Mayor chosen in accordance with the provisions of City of Boston Code, Statute 2, Section 4, shall use or be entitled to use the word Mayor in the title of any position held by such person in such service or employ. Any position presently existing or purporting to exist which conflicts with the provisions of this section shall be, and hereby is, abolished. The Collector-Treasurer shall be, and hereby is, prohibited from making any payments of City funds for the salary of any person holding or purporting to hold any position in conflict with this section.

(Ord. 1979 c. 41 § 11)

CHAPTER II

FORM OF GOVERNMENT

2-1 IN GENERAL.

2-1.1 Concerning Ceremonies in Connection with Oaths of Office of Elected Officials.

No City funds shall be expended in connection with any ceremony attending the taking of an oath of office as provided for by CBC, St. 2 § 2 unless such funds are expressly appropriated by the City Council for such purpose, nor unless the time and place for holding such ceremony is fixed by the Mayor with approval of the City Council. In the event that City funds are expended for such purpose without such express appropriation the City Council may, under the provision of CBC, St. 4 § 4, on behalf of the City, proceed against any City official making or authorizing such expenditure.
(Ord. 1980 c. 2)

2-1.2 Absence of the Mayor.

The Mayor of the City of Boston shall be required to inform the City Council President of any absence of the Mayor from the City of Boston. The Mayor shall provide the date of his departure from Boston and the date of his return to Boston to the City Council President.
(Ord. 1988 c. 2 § 1)

2-2 INCORPORATION OF CITY.

No Ordinances Apply. See Special Statutes.
(CBC 1975 Ord. T2 c. 3)

2-3 ELECTION DEPARTMENT.

2-3.1 Powers and Duties.

The Election Department shall be under the charge of a Board of four (4) Commissioners, who shall exercise the powers and perform the duties provided by statute; and shall, in the annual report,

include a statement of the number of male and female persons registered as voters in each voting precinct of the City, and the number of such persons voting at each election held during the preceding year for each person for whom votes were deposited for governor and for mayor.

(St. 1895 c. 449 §§ 2-8; St. 1913 c. 835 § 78; Rev. Ord. 1961 c. 13 § 1; CBC 1975 Ord. T2 § 200)

2-3.2 Verification of Information Pertaining to Certain Voters.

Immediately following the registration of a voter under the Provisions of Section 42 of Chapter 51 of the General Laws, the Election Commission of the City of Boston shall proceed to determine whether there appears at that time to be probable cause to believe that the affiant has made a false statement in such an affidavit. Without limiting the generality of the foregoing, the Commission, or any agent of it, shall do the following:

a. Examine the then most-recent Annual Listing of Residents, to determine whether or not the affiant is listed at the address given, and in the event the affiant is not listed,

b. Request the affiant to produce reasonable proof of residence, satisfactory to the Election Commission or its agent, and in the event the affiant fails to produce reasonable identification, the said Commission or its agent, shall,

c. Forthwith dispatch to the affiant by first class mail, postage prepaid, in an envelope endorsed "Address Correction Requested - Do Not Forward" a notice, informing the affiant that unless the Commission shall receive, within ten (10) days of the date of mailing, a signed, written confirmation of receipt of said notice, by means of a card or letter which can be mailed by the affiant without the paying of postage therefor, the Commission will proceed under the provisions of Section 47B of Chapter 51 of

the General Laws to determine his or her qualifications to vote.

(Ord. 1975 c. 14; CBC 1975 Ord. T2 § 201)

2-3.3 Notice Required of Change of Polling Place.

No change of polling places shall be made in the City of Boston until reasonable notice of the proposed change has been given by the Board of Election Commissioners to the at-large City Councillors and the district City Councillor from the District.

(Ord. 1985 c. 2)

2-4 LISTING BOARD.

2-4.1 Duties of Board.

The Listing Board constituted under Chapter 29 of the General Acts of 1917, as amended by Chapter 287 of the Acts of 1938, shall, each year in the course of making a list of all dogs owned by the inhabitants of Boston pursuant to Section 150 of Chapter 140 of the General Laws, ascertain whether each such dog is licensed or unlicensed, and shall return such information to the Police Commissioner and to the Dog Officer or to the domestic charitable corporation from time to time performing by contract the duties of Dog Officer in accordance with Section 151 of said Chapter 140. The Listing Board or its agents shall, at the time of so ascertaining, by means of a suitable written notice inform each owner or harbinger of an unlicensed dog of the penalties for harboring such dog and of the procedure for procuring a dog license. The Listing Board or its agents shall give to each owner or harbinger of an unlicensed dog the form of application for a dog license that may from time to time be prescribed by the Police Commissioner, with as many duplicate copies of the same as may be required by the Police Commissioner, and shall inform each such owner or harbinger of the procedure, if any, that may be from time to time established by the Police Commissioner for submitting such application and securing such license by mail.

(Ord. 1972 c. 14 § 1; CBC 1975 Ord. T2 § 202)

Cross-references:

G.L. c. 140 §§ 150-51; Gen. Acts. 1917 c. 29; St. 1938 c. 287; Ord. ss 2-3.1)

2-4.2 Police Assigned to Listing Board.

During the conduct of the Annual Listing of Residents, except as otherwise provided by Chapter 29 of the Acts of 1917, the Police Commissioner of the City of Boston shall detail to the Listing Board, two (2) police patrolmen in each Police Division of the City who shall during the time of their detail be subject to the lawful orders of said Board.

(Ord. 1975 c. 9; CBC 1975 Ord. T2 § 203)

2-5 CAMPAIGN SPENDING

2-5.1 Limitations on Campaign Spending in City Preliminary Elections and City Elections.

a. Limitation on Monies Expended for Political Campaign. No person being a candidate for the office of Mayor, City Councillor at Large, or School Committeeman, at any regular or special election or preliminary election, and no person acting with his leave or authority, or without such leave or authority, including but not limited to, the Treasurer or Chairman of a non-elected political committee, shall expend, cause to be expended, allow to be expended, or suffer to be expended, in the municipal year of such election, any monies in furtherance of the campaign of such a candidate, for whatever purpose, by any person, in excess of the amounts hereinafter set out, which shall be the aggregate of expenditures by all persons, under whatever color or guise, in furtherance of that campaign;

The Office of Mayor: two hundred thousand (\$200,000.00) dollars;

The Office of City Councillor at Large: twenty thousand (\$20,000.00) dollars;

The Office of School Committeeman: twenty thousand (\$20,000.00) dollars.

b. Monies Spent in Excess; Fine Established. Every dollar expended in excess of the above limitations shall be deemed to be a separate offense, and each offense shall be punished by a fine of two (\$2.00) dollars.

For the purposes of this ordinance, the incurring of a liability for goods and services in furtherance of such a campaign shall be deemed to be

an expenditure of monies equal to the amount of such liability, and it shall be deemed to have been expended on the date the liability was incurred.

c. *Effective Date.* The provisions of subsection 2-12.3 to the contrary notwithstanding, this ordinance shall be published by the action of the City Council in adopting the same, and shall take effect on the first Monday in January of the year 1976.

d. *Severability.* The provisions hereof are severable and the decision of any court of competent jurisdiction invalidating or impairing the validity of any part or portion hereof shall not be deemed to affect the validity of any remaining part or portion of this ordinance.

(Ord. 1975 c. 11; CBC 1975 Ord. T2 § 204)

Editor's Note:

This ordinance should be read against Buckley v. Valeo, 44 U.S.L.W. 4127 (U.S. Jan. 30, 1976) which held Federal campaign limitations unconstitutional.

2-6 RELATING TO POLICE OFFICERS IN ATTENDANCE AT POLLING PLACES.

The Police Officer in attendance at the several polling places at primaries, elections, preliminary elections and City elections, in addition to performing the duties otherwise set forth by law, shall:

a. Inspect each voting machine prior to the opening of the polls to ensure that no votes have been cast upon it since being set;

b. Verify by inspection that "protective counter" setting against the number provided by the voting machine custodian;

c. Place a mark next to the name of each voter who casts a ballot at such location, on the voting list provided by law;

d. Report any machine malfunction, irregularity, or disturbance in or round the polling location, both to his station house and to the Election Commission.

(Ord. 1978 c. 8)

2-7 MAYOR.

2-7.1 Appointments by Mayor.

The Mayor shall appoint heads of departments and members of municipal boards and fill vacancies therein in the manner provided by law. He shall, in the municipal year in which the term of the incumbent expires, appoint the following officers, to serve for the terms hereinafter specified:

For the term of three (3) years, beginning with the first day of May in the year of appointment: four (4) Overseers of the Public Welfare.

For the term of four (4) years, beginning with the first day of May in the year of appointment: the Fire Commissioner, Inspectional Services Commissioner, the Corporation Counsel, and the Penal Institutions Commissioner.

For the term of five (5) years, beginning with the first day of May in the year of appointment: one trustee of the Boston Public Library.

(Ord. 1954 c. 2 § 2; Ord. 1954 c. 3 § 1; Ord. 1968 c. 14 § 1; Rev. Ord. 1961 (Sup. 1971) c. 2 § 1; CBC 1975 Ord. T2 § 350; Ord. 1995 c. 8 § 13)

Cross-reference:

Ord. ss 7-2.1; St. 1909 c. 486 s. 13

See also Chapter XV: Divisions of the Mayor's Office.

2-7.2 Appointment of Weighers, Measurers, Surveyors, Inspectors of Certain Articles.

The Mayor shall annually appoint, subject to confirmation by the City Council, officers to act as weighers, measurers, surveyors, or inspectors of certain articles, each for a term of one year beginning with the first day of May in the year of appointment, who shall exercise the powers and perform the duties provided by the statutes and ordinances relating to the weighing, measuring, surveying or inspecting of such articles, shall be sworn to a faithful performance of their duties, shall be paid the fees established by law, and shall receive no compensation from the city, viz.:

One or more employees of any person, firm or corporation to be weighers of goods, who shall have no other authority than to weigh, for the benefit of their employers, all goods or materials (except beef

and coal) sold or purchased by such employers in the ordinary course of business.

One or more weighers of coal, one of whom shall not be engaged in the business of selling coal;

One or more weighers of beef, who shall not be dealers in cattle;

One or more weighers of vessels and ballast, who shall not at the time of appointment or during their term of office own, or act as agent of, or have any interest in, a vessel engaged in the transportation of stone, gravel, sand or ballast, or be engaged or interested in the sale of stone, gravel, sand or ballast;

One or more measurers of wood and bark;

One or more weighers of grain;

One or more measurers of leather who have been certified by the Director of Standards as fit persons for such appointment;

The Mayor shall annually appoint, subject to the confirmation of the City Council, constables for the term of three (3) years beginning with the first day of May in the year of appointment. Notwithstanding anything to the contrary contained in subsections 5-5.2 and 5-5.3, all such constables shall be residents of the City of Boston upon appointment and shall remain residents of the City of Boston during their tenure in office, except for housing inspectors in the Housing Inspection Department, who need not so reside, but who shall cease to act as constables and shall be removed from such office immediately upon the termination of employment as Housing Inspectors, unless they reside at that time in the City of Boston as required of other constables. Appointments of constables shall specify in each case whether the appointment is for a position connected with the City or County service to serve without bond, or for the service of civil process upon the filing of the bond required by law.

The bond required in order to authorize the service of civil process by constables shall be in the sum of five thousand (\$5,000.00) dollars with an incorporated surety company, approved by the Collector-Treasurer as surety thereon, and only such surety shall hereafter be accepted by the City Council on said bonds.

Satisfactory completion of such training course or other requirements as are from time to time found necessary and prescribed by the Mayor for the effective performance of the duties of constable shall be a prerequisite for appointment to the position of constable.

The Mayor may, with the consent of the City Council, remove a constable from office for gross misconduct. The Commissioner of the Boston Police department shall promulgate regulations supplementing the appointment and/or removal of constables pursuant to CBC 2-7.2.

(St. June 18, 1802; St. 1848 c. 308; Ord. 1931 c. 7, 8, 10; Ord. 1954 c. 2 § 3; Ord. 1965 c. 5; Ord. 1966 c. 4; Ord. 1970 c. 6; Rev. Ord. 1961 (sup. 1971) c. 2 § 2; CBC 1975 Ord. T2 § 351; Ord. 1977 c. 4; Ord. 1979 c. 38; Ord. 1982 c. 9; Ord. 2003 c. 20)

Cross-references:

G.L. c. 94; G.L. c. 95; G.L. c. 102; Ord. ss 2-8.2; Ord. ss 6-3.6.

2-7.3 Transmission of Department Reports to City Council.

The Mayor shall, upon receiving any report of a Department required by the City Council to be made to him, transmit the same to the City Council with such suggestions as he shall deem proper.

(Rev. Ord. 1961 c. 2 § 3; CBC 1975 Ord. T2 § 352)

Cross-reference:

Ord. ss 6-1.6.

2-7.4 Execution of Instruments by Mayor.

The Mayor shall countersign all notes, bonds, or scrip of the City, and may execute in its behalf all instruments to be executed by the City; but this provision shall not be construed to prevent any office from executing any instrument in the performance of his duties.

(Ord. November 18, 1833; Rev. Ord. 1961 c. 2 § 4; CBC 1975 Ord. T2 § 353)

2-7.5 Discharge of Mortgages; Releases by Mayor.

The Mayor may, upon payment to the Collector-Treasurer of the amount due on the mortgage of an estate mortgaged to the City, discharge or release the mortgage, or assign the same without recourse to the City, and may execute and deliver in behalf of the City all legal instruments necessary to effectuate such discharge, release or assignment.

(Ord. 1954 c. 2 § 4; Rev. Ord. 1961 c. 2 § 5; CBC 1975 Ord. T2 § 354)

Cross-reference:

Ord. ss 6-3.6.

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2-7.6 Release of Conditions.

The Mayor may execute and deliver to any person holding land the title to which is derived under a deed given by the City and creating an estate upon condition, a deed of release, acknowledging that up to the time when such deed of release is given such condition has been fully complied with, and releasing such land from the possibility of forfeiture to the City for any breach of condition happening prior to the date of the release.

(Ord. July 31, 1878; Rev. Ord. 1961 c. 2 § 6; CBC 1975 Ord. T2 § 355)

2-7.7 Cancellation of Bonds.

The Mayor may, upon the execution of a new bond satisfactory to him, cancel, or release the sureties on, any bond given to the City for the performance of a contract or the duties of an office. (Ord. 1895 c. 4; Rev. Ord. 1961 c. 2 § 7, CBC 1975 Ord. T2 § 356)

2-7.8 Mayor as Officer to Grant Certain Licenses.

The Mayor shall be the officer to grant licenses under Chapter 538 of the Acts of 1909, entitled "An Act Relative to the Receiving of Alms in Public Places in the City of Boston," and licenses under Section 33 of Chapter 101 of the General Laws as amended by Chapter 225 of the Acts of 1970, entitled "An Act Relative to the Granting of Certain Licenses to Sell Certain Articles for Charitable Purposes," and under Section 12A of said Chapter 101.

(St. 1909 c. 538; Rev. Ord. 1961 c. 2; St. 1970 c. 225 and Ord. 1972 c. 12, CBC 1975 Ord. T2 § 357)

Cross-reference:

G.L. c. 100 § 33.

2-7.9 Drafts, Checks, and Orders.

All drafts drawn by the City Auditor upon the Collector-Treasurer and the form of all drafts, checks, and orders used by the City Auditor, shall be subject to the approval of the Mayor.

(Ord. December 22, 1825; Ord. 1954 c. 2 § 5; Rev. Ord. 1961 c. 2 § 8; CBC 1975 Ord. T2 § 358)

Cross-reference:

Ord. ss 6-1.2.

2-7.10 Power to Close Public Buildings.

The Mayor may order any or all public buildings or offices to be closed for any period not exceeding one (1) day at a time whenever he deems it expedient, and may order flags to be displayed upon public buildings at any time.

(Ord. December 20, 1881; Rev. Ord. 1961 c. 2 § 9; CBC 1975 Cod. T2 § 359)

2-7.11 Salary.

The Mayor shall be paid an annual salary of one hundred seventy-five thousand (\$175,000.00) dollars.

(Ord. 1967 c. 3; Rev. Ord. 1961 (sup. 1971) c. 2 § 9A; CBC 1975 Ord. T2 § 360; Ord. 1980 c. 12; Ord. 1986 c. 5 § 1; Ord. 1994 c. 16 § 1; Ord. 1998 c. 2 § II; Ord. 2002 c. 6 § 1; Ord. 2006 c. 3 § 1)

2-7.12 Office Expenses of Mayor.

Unless otherwise provided by law, no position shall be created, nor shall any compensation level be established, nor shall any change be made in any compensation level in any agency which is funded in whole or in part by a City Council appropriation order or by funds the expenditure of which required approval of the City Council except by ordinance; nor shall the Mayor, unless authorized to do so by ordinance, appoint or incur expense to the City for more than thirty (30) noncivil service persons connected with his office as administrative assistants, secretaries, stenographers, clerks, telephone operators, or messengers, no more than twelve (12) of whom shall be administrative assistants; nor shall the compensation of any of such administrative assistants, secretaries, stenographers, clerks, telephone operators, or messengers be established or changed except by ordinance. Any position in or connected with the Mayor's office other than that of administrative assistant, secretary, stenographer, clerk, telephone operator, or messenger, existing outside of civil service law, which was filled at the pleasure of the Mayor, as provided for by CBC, St. T.2 § 7, or any other applicable provision of law, is hereby abolished on and after July 1, 1979; and any such position of administrative assistant, secretary, stenographer, clerk, telephone operator, or messenger in excess of thirty (30), in or connected with the

Mayor's office is hereby abolished on and after July 1, 1979.

(Ord. 1889 c. 1; Rev. Ord. 1961 c. 2 § 10; CBC 1975 Ord. T2 § 361; Ord. 1979 c. 12)

Cross-reference:

Ord. ss 2-7.14.

Editor's Note:

This subsection should be read against City Council of Boston et al vs. Mayor of Boston et al 383 Mass. 716 which held the Office of the Mayor of Boston not a "department or agency" subject to reorganization by the City Council as an exercise of their authority.

2-7.13 Defining "Presentation to the Mayor."

The passage or adoption by the City Council of any order, ordinance, or resolution (except special municipal election orders adopted under Section 13 of Chapter 2 of the Ordinances of 1974, votes relating to the internal affairs of said council, resolutions not affecting legal rights, votes electing officials, and votes confirming appointments by the Mayor) shall constitute its presentation to the Mayor for his approval in accordance with the provisions of Section 17D of Chapter 452 of the Acts of 1948, as amended. (Ord. 1974 c. 2; CBC 1975 Ord. T2 § 362)

2-7.14 Limiting the Number of Certain Employees in Connection with the Mayor's Office.

The number of secretaries, stenographers, clerks, telephone operators, and messengers connected with the Mayor's office who shall be exempt from the Civil Service laws, in accordance with the provisions of CBC St. T. 2 § 7, shall not exceed thirty (30). (Ord. 1979 c. 7)

Cross-reference:

Ord. ss 2-7.12.

2-7.15 Loaned Executive Program.

The Mayor, from time to time as necessary to carry out and discharge the conduct of the executive or administrative business of the City or County, may appoint volunteer administrative and/or other personnel who shall receive no compensation from the City; provided, however, that such volunteer personnel may receive compensation from their

private employer, if any, for the period of time during which they are providing voluntary services to the City. Said volunteer personnel shall serve in an advisory role and shall not replace any regular City employee. Said volunteer personnel shall be reviewed and renewed on an annual basis as deemed appropriate by the Mayor. No volunteer personnel shall participate in the making of any contract of the City.

(Ord. 1993 c. 13)

2-8 CITY COUNCIL.

2-8.1 Salary of City Councillors.

All City Councillors shall be paid an annual salary of eighty-seven thousand five hundred (\$87,500.00) dollars.

(Ord. 1964 c. 9; Ord. 1968 c. 13; Rev. Ord. 1961 (Sup. 1971) c. 2A § 1; Ord. 1974 c. 12 §§ 1, 2; CBC 1975 Ord. T2 § 450; Ord. 1980 c. 13; Ord. 1986 c. 3 § 1; Ord. 1994 c. 15 § 1; Ord. 1998 c. 2 § III; Ord. 2002 c. 6 § 2; Ord. 2006 c. 3 § 2)

2-8.2 Approval for Certain Sums.

Sums appropriated for the purposes of the City Council shall be expended subject to the approval of the President of the City Council.

(Ord. 1968 c. 11 § 1; Rev. Ord. 1961 (Sup. 1971) c. 2A § 2; CBC 1975 Ord. T2 § 451)

2-8.3 City Council Personnel; Salaries.

For the conduct of the affairs of the City Council there shall be, in addition to the City Clerk, a Staff Director and other such subordinate officers as may be appointed by a majority of the City Council from time to time. Such Staff Director and subordinate officers shall perform such duties as the Council may provide by order from time to time, and they shall receive an annual salary determined by Council order from within the salary ranges below:

<i>Officer</i>	<i>Salary Range</i>
Staff Director	\$74,800-\$94,100
Budget Director	\$69,960-\$89,280
Legislative Director	\$69,960-\$89,280

<i>Officer</i>	<i>Salary Range</i>
Research Director	\$58,300–\$71,000
Assistant Budget Director	\$52,470–\$65,000
Assistant Research Director	\$52,470–\$65,000
Business Manager	\$52,470–\$65,000
Programming Manager	\$52,470–\$65,000
Research Assistant	\$46,640–\$60,000
Legislative Assistant	\$46,640–\$60,000
City Messenger	\$46,640–\$60,000
Receptionist	\$34,980–\$52,500

For the conduct of the affairs of the City Council, in addition to the Staff Director and subordinate officers provided for, there shall be administrative assistants and secretaries to be appointed from time to time by the City Council. Each Councillor's office shall receive two hundred six thousand two hundred fifty (\$206,250.00) dollars per year and the President's office shall receive two hundred forty-seven thousand five hundred (\$247,500.00) dollars per year to pay such salaries according to the rules of the City Council.

(Ord. 1968 c. 11 § 1; Ord. 1968 c. 12 § 1; Ord. 1969 c. 13; Rev. Ord. 1961 (Sup. 1971) c. 2A 3; Ord. 1973 c. 3 § 1; Ord. 1974 c. 3; Ord. 1974 c. 8; Ord. 1975 cs. 4, 13; CBC 1975 Ord. T2 § 452; Ord. 1976 c. 1; Ord. 1979 cs. 1, 24; Ord. 1980 c. 11; Ord. 1983 cs. 3, 7, 19, 28, 29, 31, 32; Ord. 1984 cs. 20, 21; Ord. 1985 c. 8; Ord. 1986 c. 6 § 1; Ord. 1988 c. 6 § 1; Ord. 1992 c. 13 § 1; Ord. 1994 c. 11 § 1; Ord. 1995 c. 2 § 1; Ord. 1996 c. 4; Ord. 1996 c. 7, § 1; Ord. 1998 c. 4; Ord. 2001 c. 3; Ord. 2001 c. 4; Ord. 2001 c. 5; Ord. 2001 c. 6; Ord. 2004 c. 5; Ord. 2005 c. 4; Ord. 2006 c. 11 § 1; Ord. 2007 c. 3 § 1; Ord. 2008 c. 10 § 1; Ord. 2012 c. 7 § 1)

2-8.4 Reserved.

(Ord. 1984 c. 21 § 1; Repealed by Ord. 1992 c. 2)

2-9 DISTRICT CITY COUNCILLORS AND SCHOOL COMMITTEE MEMBERS.

2-9.1 Signature Requirements for Candidates for District Elective Positions in Municipal Elections.

Nomination petitions as provided for in St. 1948, c. 452, s. 55A, as inserted by St. 1951, c. 376, s. 2, shall be signed in the case of candidates for City Councillor elected from a District, and School Committee member elected from a District, by at least two hundred (200) registered voters of the City, qualified by their residence and otherwise, to vote for such candidate; provided however, if in any district, two hundred (200) exceeds two (2%) percent of the vote cast for Mayor in the preceding mayoral election, then the petition shall be required to contain signatures in a number equal to two (2%) percent of said vote cast.

(Ord. 1983 c. 5)

2-9.2 Establishing Nine Electoral Districts.

The districts redrawn under authority of Chapter 605 of the Acts of 1982 as amended by Chapter 343 of the Acts of 1986 are hereby redrawn, as follows:

District One - Consisting of precincts numbered one through fourteen of Ward One; precincts numbered one through seven of Ward Two; and precincts numbered one through four of Ward Three.

District Two - Consisting of precincts numbered six through eight of Ward Three; precincts numbered one through three of Ward Four; precinct number one of Ward Five; precincts numbered one through nine of Ward Six; precincts numbered one through six of Ward Seven; precinct number one of Ward Eight; and precinct number one of Ward Nine.

District Three - Consisting of precinct number fifteen of Ward One; precincts numbered two and six of Ward Eight; precincts seven through ten of Ward Seven; precincts numbered three and five through ten of Ward Thirteen; precincts numbered one, three, four, and six through nine of Ward Fifteen; precincts numbered two and four through twelve of Ward Sixteen; and precinct number thirteen in Ward Seventeen.

District Four - Consisting of precincts numbered one through four, and six through thirteen of Ward Fourteen; precincts numbered two and five of Ward Fifteen; precincts numbered one and three of Ward Sixteen; precincts numbered one through twelve and fourteen of Ward Seventeen; precincts numbered one and seven of Ward Eighteen; and precinct number twelve of Ward Nineteen.

District Five - Consisting of precincts numbered five and fourteen of Ward Fourteen; precincts numbered two through six, and eight through twenty-three of Ward Eighteen; precincts numbered ten, eleven, and thirteen of Ward Nineteen; and precincts numbered two, four, eight, and nine of Ward Twenty.

District Six - Consisting of precincts numbered six through nine of Ward Ten; precincts numbered four through ten of Ward Eleven; precincts numbered one through nine of Ward Nineteen; and precincts numbered one, three, five through seven, and ten through twenty of Ward Twenty.

District Seven - Consisting of precincts numbered four, five, eight and nine of Ward Four; precincts numbered three through five and seven of Ward Eight; precincts numbered two through five of Ward Nine; precincts numbered one through three of Ward Eleven; and precincts numbered one through nine of Ward Twelve; and precincts numbered one, two, and four of Ward Thirteen.

District Eight - Consisting of precinct number five of Ward Three; precincts numbered six, seven and ten of Ward Four; precincts numbered two through eleven of Ward Five; precincts numbered one through five of Ward Ten; and precincts numbered one and two of Ward Twenty-One.

District Nine - Consisting of precincts numbered three through sixteen of Ward Twenty-One; and, precincts numbered one through thirteen of Ward Twenty-Two.
(Ord. 1983 c. 25 § 1; Ord. 1987 c. 5 § 1; Ord. 1993 c. 4; Ord. 2002 c. 7; Ord. 2012 c. 6)

2-10 CITY CLERK.

2-10.1 General Duties of City Clerk.

The City Clerk's Department shall be under the charge of the City Clerk, who shall exercise the powers and perform the duties provided by statute; shall have the care and custody of all records, documents, maps, plans, and papers of the City, concerning the care and custody of which no other provision is made; shall attend all meetings of the City Council, and keep records of such meetings; shall cause every ordinance except ordinances consolidating and arranging the ordinances to be printed as a City document as soon as may be after its passage and, except as otherwise provided, to be published once a week for three (3) weeks successively in two (2) daily newspapers published in this City; shall keep a copy of the last revision of the ordinances with all amendments codified and arranged therein; shall keep a book containing a record of notices of accidents caused by defects in the streets; and shall, at the close of each municipal year, prepare and print as City documents (a) A pamphlet containing, except as otherwise provided, all ordinances passed during each year, and (b) A cumulative supplement to this ordinance codifying all ordinances, whensoever passed, amending this ordinance.

The Clerk, Assistant Clerk, Registrar, or Assistant Registrar shall post and perform marriages on the following days: Mondays, Tuesdays, Thursdays, and Fridays between the hours of 10:00 AM-11:30AM and 2:00PM-3:30PM or at the discretion of the officiant. Marriages performed at the discretion of the officiant shall only be performed in limited circumstances or in emergency cases. There shall be a service fee of fifteen dollars (\$15.00) paid to the City of Boston for couples that choose to marry on municipal premises. The officiant shall keep a public record of marriages performed on municipal premises in accordance with the provisions of this section; provided that the officiant shall keep private marriage records restricted under state law.

The Clerk, Assistant Clerk, Registrar, or Assistant Registrar may not perform marriages outside of City Hall during regular business hours.

(St. 1821 c. 110 § 10; St. 1909 c. 486 § 22; Ord. 1961 c. 7 § 1; Rev. Ord. 1961 (Sup. 1971) c. 10 § 1; Ord. 1975 c. 7 § 3; CBC 1975 Ord. T2 § 550; Ord. 2012 c. 1)

Cross-references:

G.L. c. 41; St. T. 2 § 750; Ord. ss 17-14.1

2-10.2 Records of Appointments.

The City Clerk shall keep a book containing the dates of appointment of all officers appointed by the Mayor or elected by the City Council and a statement, which shall be signed by every such officer, that he accepts his office subject to the statutes and ordinances.

(Rev. Ord. 1961 c. 10 § 2; CBC 1975 Ord. T2 § 551)

2-10.3 Minors' Licenses.

The City Clerk shall, when so directed by the City Council, issue licenses and badges to minors, and

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shall in such case see that every such licensee conforms to the conditions of his license.

(Rev. Ord. 1961 c. 10 § 3; CBC 1975 Ord. T2 § 552)

Cross-reference:

Ord. ss 17-5.2; ss 17-5.3.

2-10.4 Assistant City Clerk.

Upon the recommendation of the Rules Committee of the Boston City Council, the City Council shall, by a majority of its members, appoint an Assistant City Clerk who shall be thereafter approved by the Mayor and then qualified and sworn to the faithful discharge of the duties of the position. The Assistant City Clerk shall hold office until the earliest of (i) the first Monday in February in the third calendar year of his or her appointment and qualification or (ii) the date delineated in any letter of resignation tendered by the Assistant City Clerk and accepted by a majority of the members of the City Council or (iii) the date that a successor to the Assistant City Clerk is appointed by a majority of the members of the City Council and thereafter qualified and sworn and nothing in this section shall prevent an Acting Assistant City Clerk from serving as the successor under this section until such time as an Assistant City Clerk is appointed and qualified. Nothing in this section shall prevent the Assistant City Clerk from being appointed and qualified for successive terms.

The Assistant City Clerk shall assist the City Clerk in the performance of his or her office and shall discharge the duties of the City Clerk when that officer is absent or when there is a vacancy in that office. The certificate or attestation of the Assistant City Clerk shall have the same effect as that of the City Clerk.

The City Clerk shall annually submit a written evaluation/performance review of the Assistant City Clerk to each of the members of the Boston City Council. The Rules Committee may meet with the City Clerk in order to discuss the evaluation/performance review and the responsibilities and performance of the Assistant City Clerk.

(Rev. Ord. 1961 c. 10 § 4; CBC 1975 Ord. T2 § 553; Ord. 1977 c. 5; Ord. 2004 c. 2 § 1; Ord. 2006 c. 6 § 1)

Cross-reference:

G.L. c. 41 § 18.

2-10.5 Registry Division.

There shall be in the office of the City Clerk a division, known as the Registry Division, as provided in the Charter as that term is defined in clause Fifth of Section 7 of Chapter 4 of the General Laws.

(Ord. 1968 c. 14 § 4; Rev. Ord. 1961 (Sup. 1971) c. 10 § 6; CBC 1975 Ord. T2, § 554)

Cross-reference:

G.L., c. 4 § 7; Chapter 656, § 7 of Acts of 1965.

2-10.6 Notifying City Council of Mayor's Action.

At the City Council meeting next succeeding the sixteenth day after the passage of every order, ordinance, resolution and vote of the City Council presented to the Mayor in accordance with CBC, St. T.2 § 15, the City Clerk shall notify the Council of the Mayor's approval, disapproval, or failure to either approve or disapprove and such notification shall be made a part of the record of such meeting.

(Ord. 1979 c. 6)

2-10.7 Archives and Records Management Division.

No Ordinances Apply. See MGL Chapter 68 of the Acts of 1988.

2-11 CITY RECORD.

No Ordinances Apply. See Special Statutes. (CBC 1975 Ord. T2 c. 13)

2-12 ORDINANCES.

2-12.1 Construction of Ordinance: Repeal.

This ordinance shall be known as the "City of Boston Code, Ordinances," and it shall take effect upon its passage. So far as its provisions are the same in effect as those of previously existing ordinances and regulations, it shall be construed as a continuation of such ordinances and regulations; it shall not affect any act done, any right accrued, any penalty incurred, any suit, prosecution, or proceeding pending, or the tenure

of office of any person holding office, at the time when it takes effect; subject to said limitations, all ordinances of the City heretofore in are hereby repealed, except the ordinances relating to or amending the Boston Building Code established by Chapter 479 of the Acts of 1938, the ordinances establishing or amending the Boston Fire Prevention Code, and the ordinance establishing a Department of Civil Defense.

(Rev. Ord. 1961 c. 1 § 1; Ord. 1975 c. 7; CBC 1975 Ord. T2 § 750)

2-12.2 Enacting Style.

All by-laws of the City of Boston shall be denominated ordinances, and the enacting style shall be, "Be it ordained by the City Council of Boston, as follows."

(Rev. Ord. 1961 c. 1 § 2; Ord. 1975 c. 8 § 2; CBC 1975 Ord. T2 § 751)

2-12.3 Publication.

Every ordinance shall take effect upon its passage unless otherwise within provided and shall be deemed published by action of the City Council in passing the same unless the City Council shall otherwise by order direct, in which event the City Clerk shall cause the ordinance, or such notice as the Council directs, to be published, as an expense of the Clerk's office.

(Rev. Ord. 1961 c. 1 § 3; CBC 1975 Ord. T2 § 752; Ord. 1984 c. 37)

2-12.4 Departments Created.

The Departments named in the following chapters are hereby created, and placed under the charge of the officers or boards designated therefor, under the general supervision and control of the Mayor.

(Rev. Ord. 1961 c. 1 § 16; CBC 1975 Ord. T2 § 753)

Cross-reference:

Ord. ss 2-7.1.

2-12.5 Adoption and Promulgation of Forms and Regulations.

a. City Departments shall, in adopting and promulgating forms and regulations, adhere to the

requirements of Chapter 30A of the General Laws, State Administrative Procedure, particularly Sections 1 through 6, provided, however, that the City Clerk shall appropriately perform those duties designated therein to be performed by the Secretary of State.

b. Forms and regulations in effect prior to June 30, 1978, if not readopted and repromulgated in accordance with the above standards shall become null and void on June 30, 1978.

(Ord. 1975 c. 8; CBC 1975 Ord. T2 § 754; Ord. 1976 c. 15; Ord. 1977 c. 18)

2-13 REQUIRING THE ATTACHMENT OF A FISCAL NOTE TO CERTAIN LEGISLATION.

2-13.1 When Required; Information to Be Included.

The Deputy Director of Administrative Services for Fiscal Affairs of the City shall prepare a fiscal note for all orders or ordinances which would result in an expenditure of funds, except those which propose specific sum appropriations. A fiscal note shall report:

a. The estimated change effected by an order or ordinance upon City expenditures over a period of five (5) years after the implementation of the order or ordinance unless the Deputy Director for Fiscal Affairs certifies that the cost of the order or ordinance over the initial five (5) year period will not exceed twenty-five thousand (\$25,000.00);

b. The estimated change effected by an order or ordinance upon City expenditures after the initial five (5) year period if substantial increases or decreases in the annual cost of the order or ordinance are expected to occur after the initial five (5) year period; and

c. What portion of the funds which will finance the order or ordinance will be provided by the local, State, and Federal Governments respectively. The fiscal note shall also include actuarial data where relevant.

(Ord. 1976 c. 6)

2-13.2 Form of Fiscal Note.

A fiscal note may consist of one or more sheets, but each sheet shall be in substantially the following form:

CITY OF BOSTON FISCAL NOTE

Docket number (here insert docket number of proposed order or ordinance); date of referral (date of referral to committee); date due (date two weeks from date of referral); date of return (date fiscal note is returned to City Clerk); subject (here insert general area of concern of proposed order or ordinance).

I hereby certify that, to the best of my knowledge, the total cost of Docket Number (here insert above docket number) over the initial five (5) year period of its implementation will not exceed \$25,000.00. (If the above statement is correct, the Deputy Director of Administrative Services for Fiscal Affairs shall affix his or her signature in the space provided. If the above statement is not correct, the Deputy Director for Fiscal Affairs shall complete the remainder of the sheet.)

The estimated cost of Docket number (here insert above docket number) over the initial five-year period of its implementation exceeds \$25,000.00. (Ord. 1976 c. 6)

2-13.3 Information and Procedures.

The information required by Section 2-13 of the Revised Ordinances of 1985, as amended, is as follows:

FISCAL NOTE WORKSHEET

(The aforementioned worksheet shall include a total amount of estimated expenditures of the proposed order or ordinance for the initial five-year period of implementation and shall also include a breakdown under headings Year 1, Year 2, Year 3, Year 4, and Year 5 of tabulations of the estimated expenditures of said proposal throughout the initial five-year period of implementation. The estimated expenditures of the proposed order or ordinance shall be categorized under the headings entitled) 1. Estimated total cost of

proposal; (subdivision) A. personal services, B. contractual services, C. supplies and materials, D. current charges and obligations, E. equipment, F. structures and improvements, G. land and nonstructural improvements; 2. portion of financing provided by (subdivision) A. city funds, B. state funds, C. federal funds, D. Other funds (with accompanying explanation).

If substantial increases or decreases in any of the above categories are expected to occur after the initial five-year period, please outline and explain (here respondent shall explain any such expected increases or decreases).

Attach actuarial data when relevant.

(The Deputy Director of Administrative Services for Fiscal Affairs shall here affix his or her signature in the space provided if he or she has not already certified the above portion.)

Upon referral of any proposed order or ordinance to committee, the City Clerk shall forthwith provide a copy of the proposed order or ordinance and a form entitled "Fiscal Note," with the appropriate matter required by the first three paragraphs of the foregoing form printed or inserted thereon, to the Deputy Director for Fiscal Affairs. The fiscal note shall be prepared by the Budget Division in cooperation with the departments, agencies, or governmental units to be affected by the order or ordinance. The Deputy Director for Fiscal Affairs shall return the proposed order or ordinance with the fiscal note attached, to the City Clerk within a period of two (2) weeks from the date of referral of the proposed order or ordinance to committee. The City Clerk shall forward the fiscal note to the appropriate committee, from which time the fiscal note shall be permanently attached to the order or ordinance and shall be a matter of public record. Upon receipt of the fiscal note, the chairperson of the committee shall request of the sponsor(s) of the order or ordinance any comment regarding the contents of the fiscal note.

If for any reason the Deputy Director for Fiscal Affairs is unable to prepare the fiscal note within two (2) weeks from the date of referral to committee of the proposed order or ordinance, the Deputy Director for Fiscal Affairs shall so inform the City Clerk,

whereupon a meeting of the Executive Committee of the City Council shall be called for one hour following the commencement of the next regularly scheduled City Council meeting and at which the Deputy Director for Fiscal Affairs shall appear and state his or her reasons for failure to present the fiscal note. The City Council, at its discretion, may grant an extension of time to the Deputy Director for Fiscal Affairs for preparation of the fiscal note, or may employ its powers under Section 17F of Chapter 452 of the Acts of 1948, as amended, or any other authority vested in the City Council to assist the Deputy Director for Fiscal Affairs in the preparation of the fiscal note.

The requirement to prepare a fiscal note shall be deemed waived if two-thirds of the members of the City Council so vote.
(Ord. 1976 c. 6)

2-14 STATEMENT OF FINANCIAL INTERESTS.

2-14.1 Title and Purpose.

This section shall be known as the "Statement of Financial Interests Ordinance." The purpose of this section is to ensure that all City Councillors are fully reporting their relevant financial interests on a yearly basis. Such disclosures are in the interest of transparency and good governance and will help to prevent conflict of interest problems.
(Ord. 2009 c. 2)

2-14.2 Definitions.

Business shall mean any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other legal entity organized for profit or charitable purposes.

Business trust shall mean a business (or "Massachusetts") trust generally organized pursuant to M.G.L. c. 182, or some other similar statute, for the purpose of conducting a business. It is similar to a corporation in that its ownership interest is generally divided into transferable shares or certificates which are held by the beneficiaries. These beneficiaries are similar to a corporation's stockholders. See also *Trust*.

Charitable trust shall mean a type of business trust, generally a not-for-profit entity organized for charitable trust purposes such as supporting certain educational, scientific or religious goals. The provisions of a charitable trust are usually enforceable by the Attorney General and such trusts are sometimes tax-exempt pursuant to IRC 501(c)(3). See also *Trust*.

Debt shall mean loan or liability and all collateral associated therewith, excluding installment loans, educational loans, medical and dental bills, credit card purchases, support or alimony obligations, or debt owed in the ordinary course and day-to-day operations of running a business.

Direct interest in legislation, legislative action or a matter before the City Council shall mean when a person has an interest in, at any time during the relevant calendar year, (i) the use or value of his property; or (ii) the conduct of his business; or (iii) the use or value of the property of or the conduct of the business of a person with which he is affiliated as an employee, officer, director, trustee, general partner, proprietor, or in a similar managerial capacity, that could be or was affected by legislation, legislative action or a matter before the City Council, unless the effect is not substantially greater than the effect generally on persons residing in Massachusetts. Any business, which is regulated by the City Council has such an interest.

Equity shall mean any stock, partnership share, beneficial trust interest, proprietorship interest, or similar ownership interest in a business.

Fair market value shall mean the value that a willing buyer would pay a willing seller for property in an arm's-length transaction. The fair market value can be determined in several acceptable ways including an actual sale or a certified valuation by an independent accountant.

Family trust shall mean a trust that is generally organized by a family member on behalf of some other family member to protect assets from being used by the beneficiaries (except as permitted by the trust's provisions). A family trust may be created by a written document, but need not be. See also *Trust*. Depending on the nature of the trust, the beneficiary may have either a "present interest" (a right to trust assets now) or a "future interest" (for example, an interest that will not occur until someone's death). A

"future interest" may be further classified as either "vested" or "contingent," meaning that the interest may or may not be certain to occur at some future point. Generally, if you have the right to receive any of the assets of the trust right now, you have a "present" interest in those assets. Accordingly, you would have to report ownership of those assets if valued at one thousand (\$1,000.00) dollars or more. On the other hand, if you do not have the right to receive any of the assets of the trust right now, you do not have a "present" interest in those assets. Accordingly, you would not have to report anything about those assets.

Gifts are anything given when full value is not returned for what was received and may include payment, entertainment, subscription, advance, discount, or services having in the aggregate a fair market value in excess of one hundred (\$100.00) dollars. This does not include gifts from a spouse, immediate family or close family (parents, grandparents, children, siblings) member nor does it include political contribution which must be otherwise disclosed in accordance with relevant laws.

Honoraria mean a payment of money or anything of value as consideration for an appearance, speech, article or the like.

Income shall mean any income from whatever source derived including a fee, salary, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof. Excluded only are the following:

1. Interest from savings accounts and certificates of deposit;
2. Interest from governmental obligations other than those of the Commonwealth or any political subdivision or any public agency or authority created by the state legislature;
3. Alimony and support payments;
4. Proceeds from a life insurance policy;
5. Interest or dividends from money market funds; retirement or disability benefits profit-sharing plans, 401 (k) plans; and
6. Social security payments.

Investment shall mean any tangible or intangible property, whether personal property or realty, held primarily for the purpose of attaining an economic advantage, whether directly (as in the case of income or appreciation) or indirectly (as in the case of tax shelters). Excluded from this definition are, for example, properties held chiefly for enjoyment, certain retirement plans, profit-sharing plans, 401(k) plans, insurance policies and your primary residence.

Legislative agent shall mean any person who for compensation or reward does any act to promote, oppose or influence legislation, or to promote or oppose or influence the governor's approval or veto thereof or to influence the decision of any member of the executive branch where such decision concerns legislation or the adoption, defeat, of postponement of a standard, rate, rule or regulation pursuant thereto. The term shall include persons who, as any part of their regular and usual employment and not simply incidental thereto, attempt to promote, oppose or influence legislation or the governor's approval or veto thereof, whether or not any compensation in addition to the salary for such employment is received for such services.

Person shall mean a business, individual, corporation, union, association, firm, partnership, committee or other organization or groups of persons.

Realty trust shall mean a type of business trust generally organized for the primary purpose of buying, selling, holding, or investing real property usually created by a written instrument. These trusts are sometimes also real estate investment trusts or "REITS." See also *Trust*.

Reimbursement is a payment for money expended or to be expended (for example, travel, meals, or lodging), which is for actual expenses incurred or to be incurred reasonably related to the event to which they are connected.

Security shall mean any note, stock, bond, debenture, evidence of a debt owed to you or to your spouse, certificate of interest or participation in any profit-sharing arrangement, certificate of interest in any mutual fund, stock, or commodity option, or similar evidence of ownership or interest, or a receipt or certificate of deposit for, or warrant or right to subscribe to or purchase, any of the foregoing.

Tax shelter shall mean any device used by taxpayer to reduce or to defer payment of taxes. Tax shelters organized either as a business or as an investment and are reportable on Statements of Financial Interests as such. Retirement plans are not considered tax shelters and are generally not reportable.

Trust shall mean a legal entity in which the actual (or "beneficial") ownership of property is separated from its legal ownership. The legal ownership is held by a trustee who owes certain duties to the beneficiaries. Those duties usually arise by a written document (a "Declaration of Trust," for example).
(Ord. 2009 c. 2)

2-14.3 Statement of Financial Interests.

All City Councillors must file an annual Statement of Financial Interests with the City Clerk on or before June 1 of each calendar year for the preceding calendar year. The forms for such Statements will be provided by the City Clerk and all Councillors must fill out the forms in their entirety. Information required to be provided in the Statement of Financial Interest shall include the following:

- a. The Councillor's name and home address and the name of the Councillor's spouse if he or she resides with the Councillor;
- b. Any other governmental position(s) held by the Councillor and the Councillor's spouse in any federal, state, county, district, or municipal agency, compensated or uncompensated, full or part-time in the relevant calendar year, income of Councillor's position(s) must be disclosed, but not the income of the Councillor's spouse;
- c. Each business, including non-profit organizations, with which the Councillor or the Councillor's spouse were associated in the relevant calendar year as an employee, or as a partner, proprietor, director, or in any managerial capacity, full or part-time, compensated or uncompensated, income of Councillor's position(s) must be disclosed, but not the income of the Councillor's spouse;
- d. Any business, the equity of which the Councillor and/or the Councillor's spouse owned

more than one percent (1%) during the relevant calendar year; the Councillor's percentage ownership must be disclosed, but not the percentage ownership of the Councillor's spouse;

e. Any equity in a business with which the Councillor is associated which the Councillor transferred to the Councillor's spouse within the relevant calendar year;

f. Any business with which the Councillor was previously associated with which the Councillor had an understanding in the relevant calendar year with regard to future employment;

g. Any gifts, honoraria and reimbursements received by the Councillor or the Councillor's spouse during the relevant calendar year; the Councillor's spouse must report the gift, honoraria and reimbursement only if the source was a legislative agent and does not need to report the amount; the Councillor must report the gift only if the City Council regulates the source, or if the source had or has a direct interest in a matter, legislation or legislative action before the City Council;

h. Any security with a fair market value of one thousand (\$1,000.00) dollars or more, issued by the Commonwealth, any public agency or any municipality, owned by the Councillor or the Councillor's spouse and any income received by the Councillor in the relevant calendar year in excess of one thousand (\$1,000.00) dollars;

i. Any security and other investments with a fair market value greater than one thousand (\$1,000.00) dollars beneficially owned by the Councillor or the Councillor's spouse for any part of the relevant calendar year;

j. Any interest held by the Councillor or the Councillor's spouse in a trust as of January 1 of the relevant calendar year, including business, charitable, family, and/or realty trusts;

k. Any real property in Massachusetts with an assessed value greater than one thousand (\$1,000.00) dollars in which the Councillor or the Councillor's spouse held an interest in as of December 31 of the relevant calendar year;

l. Any real property in Massachusetts or out-of-state, including time-shares, with an assessed value of one thousand (\$1,000.00) dollars or more, held for investment or rental purposes, which the Councillor or the Councillor's spouse had a direct or indirect financial interest as of December 31 of the relevant calendar year;

m. Any real property interest in Massachusetts which was purchased, sold, or otherwise transferred to or from the Councillor and/or the Councillor's spouse any time during the relevant calendar year;

n. Any mortgage loan including second mortgage loans and home equity loans in excess of one thousand (\$1,000.00) dollars outstanding on December 31 of the relevant calendar year for which the Councillor or the Councillor's spouse was obligated;

o. Any parcel of real estate on which the Councillor or the Councillor's spouse held a mortgage in the relevant calendar year, including the name of the issuer and the assessed value;

p. Certain debt, loan or other liability in excess of one thousand (\$1,000.00) dollars owed by the Councillor or the Councillor's spouse on December 31 of the relevant calendar year; and

q. Any creditor who during the relevant calendar year forgave indebtedness in excess of one thousand (\$1,000.00) dollars owed by the Councillor or the Councillor's spouse.
(Ord. 2009 c. 2)

Councillor fails to file. However, any Councillor who becomes aware of an error or needs to amend a previously filed Statement of Financial Interests shall be able to make such a cure at any time without penalty.

(Ord. 2009 c. 2)

2-14.4 Penalties and Enforcement.

Any Councillor who knowingly files a false Statement of Financial Interests and fails to cure any falsity shall be punished by a fine of three hundred (\$300.00) dollars. Any Councillor who fails to file an annual Statement of Financial Interests or fails to fill out the form in its entirety shall receive a written warning by the City Clerk notifying them of their failure. Failure to file a Statement of Financial Interests or complete any filed Statement of Financial Interests within thirty (30) days of receiving the City Clerk's written warning shall result in a fine of three hundred (\$300.00) dollars for each month the

CITY OF BOSTON CODE - ORDINANCES

CHAPTER III
ACQUISITION AND DISPOSITION OF PROPERTY

No Ordinances Apply. See Statutes.
(CBC 1975 St. T3)

CHAPTER IV

CONTRACTS

4-1 DESIGNER SELECTION BOARD.

4-1.1 Definitions.

The words defined in this ordinance shall have the meanings set forth below whenever they appear in this section, unless the context in which they are used clearly requires a different meaning, or a different definition is prescribed for a particular paragraph or provision.

Applicant shall mean any person or entity applying to perform design services, the principal personnel responsible for the provision of such services for the project, and the persons who will be the principal staff for the project.

Board shall mean the Designer Selection Board.

Continued services shall mean authorization for a designer who has been appointed for one stage of a project to act as the designer for a succeeding stage or stages of the same project.

Construction manager shall mean any designer or any other corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other entity engaged in the practice of construction management or construction scheduling.

Director shall mean the director of the Department of Administrative Services.

Designer shall mean an individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or other entity engaged in the practice of architecture, landscape architecture, or engineering, which satisfies the following:

a. If an individual, the individual is a registered architect, landscape architect, or engineer;

b. If a partnership, a majority of all the partners are persons who are registered architects, landscape architects, or engineers;

c. If a corporation, sole proprietorship, joint stock company or other entity, the majority of directors and the chief executive officer are persons who are registered architects, landscape architects, or engineers, and the person to have the project in his or her charge is registered in the discipline required for the project;

d. If a joint venture, each joint venturer satisfies the requirements of this section.

Design services shall mean any of the following services provided by any designer, programmer, or construction manager in connection with any public building project:

a. Preparation of master plans, studies, surveys, soil tests, cost estimates or programs;

b. Preparation of drawings, plans, or specifications, including but not limited to schematic drawings, preliminary plans and specifications, working plans and specifications or other administration of construction contracts documents;

c. Supervision or administration of a construction contract;

d. Construction management or scheduling.

Extended services shall mean authorization for a designer who has been appointed to provide design services for a project to act as designer for work to be done on another project not originally included in that designer's contract.

Mayor shall mean the Mayor or persons designated by him/her.

Programmer shall mean any designer or any other individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or other entity engaged in the preparation of architecture facility programs or studies.

Using agency shall mean a department, agency, board, commission, authority, or other instrumentality of the City of Boston.
(CBC 1981 c. 21 § 1)

4-1.2 Membership Regulations and Procedures of the Board.

a. *Appointment of Members; Terms.* There shall be located within the Administrative Services Department a Designer, Selection Board, consisting of five (5) members. Four (4) members shall be appointed by the Mayor within sixty (60) days of the effective date of this ordinance, as follows: one from three (3) candidates nominated by the Boston Society of Architects, one from three (3) candidates nominated by the Massachusetts Society of Professional Engineers, one from three (3) candidates nominated by the Boston Municipal Research Bureau, one from three (3) candidates nominated by the Boston Society of Civil Engineers, and the director of Administrative Services ex officio. The nominee of the Boston Society of Civil Engineers shall be appointed for a term of two (2) years; of the Boston Municipal Research Bureau for a term of three (3) years; of the Massachusetts Society of Professional Engineers for a term of four (4) years; and of the Boston Society of Architects for a term of five (5) years. As the term of any commissioner expires, his successor shall be appointed for a term of five (5) years. Vacancies in the Commission shall be filled for the unexpired term. The members of the Board shall serve without compensation. The Board shall elect each year one member to serve as the chairman. The Director of Administrative Services shall serve as the secretary thereof and shall keep all records of the Board. The Board shall not be subject to the supervision or control of the Administrative Services Board or any member thereof and shall, on or before the last Monday of January, 1982, and annually thereafter, make a report of its proceedings and votes to the City Council.

b. *Jurisdiction and Duties.* The Board shall have jurisdiction over the selection of all designers, programmers, and construction managers performing

design services in connection with any building projects for all City departments.

c. Public Notice.

1. Each contract for designer services for a project subject to the jurisdiction of the Board shall be publicly advertised by the Board in a newspaper of general circulation in the City, local minority papers, and in such places as the Board requires by regulation, at least two (2) weeks before the deadline for filing applications.

2. The public notice required by the above shall contain:

(a) A description of the project, including the specific designer services sought, the estimated construction cost, and the time period within which the project is to be completed;

(b) If there is a program for the project, a statement of when and where the program will be available for inspection by applicants, and when and where a briefing session will be held for applicants, if one is required by the Board's regulations and if there is not a program for the project, a statement to the effect;

(c) The qualification required of applicants for the projects;

(d) The categories of designers, consultants, if any, for which applicants must list the names of consultants which the applicant may choose to use;

(e) Whether the fee has been set or will be negotiated, and if the fee has been set, the amount of the fee.

d. *Filing of Designer's Statement.* No designer, programmer, or construction manager may file an application for any project subject to the Board's jurisdiction unless having first filed with the Board a written statement containing the following information:

1. Certification that the applicant legal entity, if applying to perform design services other than preparation of studies, surveys, soil testing, cost estimates or programs, is a designer or construction manager;

2. The names and addresses of all partners, if a partnership, of all officers, directors and all persons with an ownership interest of more than five (5%) percent in the applicant if not a partnership;

3. The registration number and status of each such person in every jurisdiction in which such person has ever been registered as an architect, landscape architect or engineer;

4. A list of all projects for all public agencies within the Commonwealth for which the applicant has performed or has entered into a contract to perform design services within the five (5) year period immediately preceding the filing of the information required in this section;

5. A list of all current projects for which the applicant is performing or is under contract to perform any design services; and

6. If the applicant is a joint venture, the information required in this section shall be required for each joint venturer, as well as for the joint venture itself.

e. *Statement Required to Be Current.* The Board shall keep a permanent record of the statements filed pursuant to this section and shall require the statements to be made current on a regular basis, and that statements pursuant to subparagraphs 5. and 6. of paragraph d. of this section be current with each application filed.

f. *Statement of Experience and Qualifications.* An applicant to perform design, programming or construction management services on a project may be required to file, in addition to the statement required under paragraph d. of this subsection, a written application as prescribed by the Board, relating to the applicant's experience, ability, and qualifications.

g. *Swearing to Statements.* Every application or statement filed pursuant to this section shall be sworn to under penalties of perjury. A designer, programmer or construction manager who has been determined by the Board to have filed materially false information under this section shall be disqualified by the Board from further consideration for any project for such time as the Board determines is appropriate.

h. *Board's Restriction in Advertising.* The Board shall not advertise for designers nor select any finalists to perform any design services other than the preparation of master plans, studies, surveys, soil tests, cost estimates, or programs unless the Director of Administrative Services certifies: That it is appropriate to do so and either that a program defining the design services required has been prepared, and has been approved by the Administrative Services, or that no program is required by the Administrative Services.

i. *Board to Adopt Written Criteria.* The Board shall adopt written applicants' criteria for selection of semifinalists and finalists based upon information obtained under paragraph d. of this section for each project. The criteria shall include:

1. Prior similar experience;
2. Past performance on public and private projects;
3. Financial stability;
4. Identity and qualifications of the consultants who will work with the applicant on the project; and
5. Any other criteria that the Board considers relevant for any project.

j. *Semifinalists.* Semifinalists may be chosen for each project. The Board shall select at least three (3) finalists from among all the applicants, or from the semifinalists selected under this section, and in doing so may require all the applicants or the semifinalists to:

1. Appear for an interview before the Board;
2. Present a written proposal to the Board not including a fee quotation; or
3. Participate in a design competition held by the Board.

k. *List of Finalists.* The Board shall transmit a list of the chosen finalists to the Mayor. No person or firm disqualified pursuant to paragraph d. of this

section, or debarred pursuant to Section 44C of Chapter 149 of the General Laws of the Commonwealth, shall be so included as a finalist.

The list shall rank the finalists in order of qualification and include a record of the final vote of the Board on the selection; and include a written statement explaining the Board's reason for its choice and its ranking of the finalists.

1. *Disqualification of Board Member.* For the purpose of this ordinance, and subject to the penalties therein, no member of the Board shall participate in the selection of a designer as a finalist or semifinalist for any project if the member or any member of his or her immediate family has a direct or indirect financial interest in the award of the design contract to any applicant;

1. Is currently or has ever been employed by, or is currently a consultant to or under contract to an applicant;

2. Is negotiating or has an arrangement concerning future employment or contracting with any applicant; or

3. Has an ownership interest in, or is an officer or director of any applicant.

m. *Fee Set by City Prior to Selection of Designer.* In the selection of a designer when the fee for design services has been set by the City prior to the selection process, the Mayor shall appoint a designer from among the list transmitted to him/her under paragraph k. of this section. If the Mayor appoints any designer other than the one ranked first by the Board, she/he shall file a written justification of the appointment with the Board.

When the fee for design services is to be negotiated, the Mayor shall review the list transmitted by the Board, and may exclude any designer from the list if a written explanation is filed with the Board. The Mayor shall then appoint a designer based on a successful fee negotiation. The Mayor or persons designated by him/her shall first negotiate with the first-ranked designer remaining on the list. Should the Mayor be unable to negotiate a satisfactory fee with the first-ranked designer within thirty (30) days, negotiations shall be terminated and negotiations

undertaken with the remaining designers, one at a time, in the order in which they were ranked by the Board, until an agreement is reached. In no event may a fee be negotiated which is higher than a maximum fee set by the City prior to selection of finalists. Should the Mayor be unable to negotiate a satisfactory fee with any designer initially selected as a finalist by the Board, the Board shall recommend additional finalists in accordance with the provisions of this section. The Mayor may require a finalist with whom a fee is being negotiated to submit a fee proposal and include with it such information as the Mayor requires to provide current cost and pricing data on the basis of which the designer's fee proposal may be evaluated.

n. *Statement of Fees in Contract.* All fees shall be stated in designer's contracts and in any subsequent amendment thereto as a total dollar amount. Contracts may provide for equitable adjustments in the event of changes in scope or services.

o. *List of Consultants Used by Applicants.* When the Board has required that applicants list consultants which the applicants may employ, in no event shall a consultant be used who is debarred pursuant to General Laws of the Commonwealth Section 44C of Chapter 149, as amended, and any change in or addition to the consultants named in the application and allowed by the Board upon appointment must be approved by the Mayor and reported to the Board, along with a written statement by the designer or construction manager of the reasons for the change.

p. *Truth-In-Negotiations Certificate.* If the designer's or construction manager's fee is negotiated, the designer or construction manager must file a truth-in-negotiations certificate prior to being awarded the contract by the Mayor, which must be incorporated into the contract. The certificate must contain:

1. A statement that the wage rates and other costs used to support the designer's compensation are accurate, complete, and current at the time of contracting; and

2. An agreement that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the Mayor

determines that the fee was increased by such amounts due to inaccurate, incomplete or noncurrent wage rates or other costs.

q. *Special Conditions.* The Board may specify other special conditions or requirements in selecting a particular applicant as a finalist. If any change is made by the applicant after appointment relating to such special conditions or requirements, the change must be approved by the Mayor and reported to the Board along with a written statement by the appointee of the reasons for the change.

r. *Eligibility.* A designer or programmer appointed to do a feasibility study, master plan or program for a project shall be ineligible for appointment to perform the design services for that project.

s. *Gifts and Contributions Prohibited.* Every contract for design services awarded under this section shall include the following:

1. Certification that the designer or construction manager has not given, offered or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the contract for design services;

2. Certification that no consultant to or subcontractor for the designer or construction manager has given, offered or agreed to give any gift, contribution or offer of employment to the designer or construction manager, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the designer or construction manager;

3. Certification that no person, corporation or other entity, other than a bona fide, full-time employee of the designer or construction manager, has been retained or hired by the designer or construction manager to solicit for or in any way assist the designer or construction manager in obtaining the contract for design services upon an agreement or understanding that such person, corporation or other entity be paid a fee or consideration contingent upon the award of the contract to the designer.

t. *Liability Insurance.* Contracts for design services shall include a requirement that the designer at his/her own expense obtain and maintain a professional liability insurance policy covering negligent errors, omissions and acts of the designer or of any person or business entity for whose performance the designer is legally liable arising out of the performance of such contracts for design services. The designer shall furnish a certificate or certificates of such insurance coverage to the City prior to the award of the contract. A professional liability insurance policy obtained and maintained pursuant to this subparagraph shall provide for coverage in an adequate amount for the applicable period of limitations and include any added coverage and in such amounts as the City shall require.

At the request of the City, a consultant employed by a designer subject to this subparagraph shall obtain and maintain a liability insurance policy covering negligent errors, omissions and acts of such consultant or of any person or business entity for whose performance the consultant is legally liable arising out of the performance of the contract of consultant services.

u. *Disqualification for False Statements.* A designer, construction manager, or programmer who has been determined by the Board to have provided materially false statements or information under this section shall be disqualified by the Board from future work on any project for such time as the Board determines is appropriate.

v. *Appointment for Continuous or Extended Service.* The Mayor may appoint a designer to perform continued or extended services if the following conditions are met:

1. A written statement is filed with the Board explaining the reasons for the continuation or extension of services;

2. The program for the design services is filed with the Board if one is required by the regulations of the using agency; and

3. The Board approves the appointment of the designer for continued or extended services and states the reasons therefor.

w. *Use of Expedited Procedures.* Whenever the Mayor shall declare that the health or safety of any persons will be endangered because of the time required for the selection of a designer, programmer or construction manager by the procedures prescribed in this section or whenever a deadline for action is set on a project by any court or Federal agency which cannot be met if those selection procedures are followed. Finalist selection may be made by the Board by expedited procedures adopted by regulation by the Board.

x. *Contracts Under Ten Thousand (\$10,000.00) Dollars.* Every contract for design services for any building construction, reconstruction, alteration, remodeling, or repair estimated not to exceed ten thousand (\$10,000.00) dollars by the City, thereof, shall be awarded complying with the purposes and intent of this section, and the following requirements:

1. The establishment by using agency of uniform requirements of information to be submitted by all applicants, a uniform procedure for the evaluation of all applications to a group of no fewer than three (3) finalists, and the opportunity to be afforded equally to all finalists to provide additional information to or appear before the selection body;

2. That a written explanation of the reasons for selection including the recorded vote, if any was taken, be made public and recorded with the Designer Selection Board prior to the notification of award;

3. The provisions of this section regarding the designation of fees in the contract;

4. Provided, however, that nothing in this section shall be interpreted to require the establishment of a Board or waive or reduce the requirements of any other applicable law or regulation.

y. *Adoption of Procedures.* The Board shall independently adopt procedures and regulations as necessary to implement expeditiously the requirement of this section.
(Ord. 1981 c. 21 § 2)

4-1.3 Failure to Comply With Regulations and Procedures.

In the event that any City official awards a contract for design services after this ordinance is in force without complying with the provisions of this ordinance, such contract shall not be binding on the City; and the Mayor or City Council, with the assistance of the Corporation Counsel or Special Counsel, shall proceed in any court of competent jurisdiction to recover any City funds expended in accordance with the provision of such contract from the contractor or the City official who awarded the contract without compliance herewith.
(Ord. 1981 c. 21 § 3)

4-1.4 Severability Clause.

If any portion of this ordinance is found by a court of competent jurisdiction to be unlawful, such finding shall not affect any other portion of said ordinance not specifically so found.
(Ord. 1981 c. 21 § 4)

4-2 TO ENABLE CITY DEPARTMENTS TO GIVE PREFERENCE TO CITY FIRMS IN THE PURCHASE OF CERTAIN GOODS AND SERVICES.

4-2.1 Definition.

For purposes of this section the term "city firm" shall mean that for the term of the contract:

a. In the case of a sole proprietorship, the person's principal place of business and residence are located in the City, or a majority of his/her employees are residents in the City;

b. In the case of a partnership, a majority of the partners reside in the City, or the principal place of business of the partnership is located in the City, or a majority of the employees of the partnership reside in the City;

c. In the case of a corporation, a majority of its shareholders are residents of the City, or the principal place of business of the corporation is located in the City, or a majority of the employees of the corporation are residents of the City.
(Ord. 1979 c. 44 § 1)

4-2.2 City Firms Bid; Mayor's Permission Required to Award Contract.

Whenever any officer or board in charge of a Department of the City or County invites proposals to do any work or make any purchase, except work done or purchases made in accordance with G.L. c. 30, s. 39M, or G.L. c. 149, ss. 44A-L, and a responsible and eligible City firm bids a price no higher than five (5%) percent above a non-City firm which is the lowest bidder, said officer or board shall request the Mayor's permission to award the contract without further advertising to the City firm.
(Ord. 1979 c. 44 § 2)

4-2.3 Mayor to Refer to Committee.

The Mayor shall refer such request to a Committee composed of the Director of Administrative Services, the Collector-Treasurer and the Corporation Counsel. If a majority of said Committee recommends the award of the contract to the City firm notwithstanding that its bid was not the lowest, the Mayor may approve such award.
(Ord. 1979 c. 44 § 3)

4-2.4 Mayor to Notify Boston City Council; Time Required.

Provided, however, that at least three (3) weeks prior to the awarding of such a contract, the Mayor shall notify the Boston City Council.
(Ord. 1979 c. 44 § 4)

4-3 TASK FORCE FOR IMPLEMENTATION.

4-3.1 Purpose.

The purpose of this task force shall be: to ensure compliance with Chapter 40 Section 4F in promoting the purchase of clothing and apparel by cities and towns from manufacturers that pay their employees a prevailing wage; to review the implementation and enforcement of this section; and to make recommendations from time to time in connection herewith.
(Ord. 2001 c. 7)

4-3.2 Composition and Term.

The Task Force for Implementation shall be composed of three (3) members who shall be appointed by the Mayor.

a. One (1) member of the task force shall be a labor union member appointed by the Mayor from a list of three (3) nominees recommended by the AFL-CIO.

b. One (1) member of the task force shall be a representative of the garment industry or an association representing said industry.

c. One (1) member of the task force shall be a member of a public interest group with experience in the garment industry.

Each member of the task force shall serve a three-year (3) term.
(Ord. 2001 c. 7)

4-3.3 Meetings.

The task force shall meet periodically and in special session as required. All meetings of the task force shall be open to the public under the Commonwealth's Open Meeting Law.
(Ord. 2001 c. 7)

4-3.4 Reporting.

On a regular basis, the City Auditor shall issue a report on the City's compliance with G.L. c. 40, s. 4F. The report, sorted by department, shall include: contract or order for clothing apparel; the vendor, name and address of the vendor's manufacturer(s) and contractor(s); factory name(s) and address(es) to be used for the contract or order; and a copy of the bidder's written declaration of G.L. c. 40, s. 4F compliance.

This report will also be subject to review by the City Council Post Audit and Oversight Committee through the formal hearing process of the Boston City Council and its members.
(Ord. 2001 c. 7)

4-3.5 Sunset Clause.

The above terms and conditions for the Task Force for Implementation shall expire three (3) years from the date of passage of G.L. c. 40, s. 4F.

(Ord. 2001 c. 7)

Editor's Note:

Former Section 4-3, Conditions Required as Part of Contractual Agreements, previously codified herein and containing portions of Ordinance Nos. 1986 c. 18 and 1991 c. 6, were repealed in their entirety by Ordinance No. 1994 c. 4.

4-4 PROMOTING MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES IN THE CITY OF BOSTON.

4-4.1 Findings.

Whereas, in keeping with the City of Boston's (the "City") economic development philosophy to maximize economic opportunity for all citizens of Boston and every segment of the business community, it is the policy of the City to encourage, assist and provide equal opportunity for minority and women owned businesses to participate in the receipt of City contracts; and Whereas, the City supports every reasonable measure to avoid becoming a passive participant in any private sector discrimination practiced against minority and women owned business enterprises within the City of Boston's marketplace; and Whereas, nondiscrimination alone in the awarding of City contracts is not sufficient to maximize economic opportunity for all residents of Boston and every segment of the business community, the need exists for purposeful steps to be taken to ensure that both minority and women owned businesses are utilized by the City to a more substantial and equitable extent; and Whereas, City Ordinance § 4-4 "Promoting Minority and Women Owned Business Enterprises in the City of Boston," as enacted, could no longer be implemented due to United States Supreme Court jurisprudence; now therefore the City declares and finds that it is necessary to ameliorate the continuing negative impact of said underutilization and under-representation of minority and women owned businesses in City contracts.

(Ord. 1987 c. 14 § 1; Ord. 1994 c. 18 § 1; Ord. 1995 c. 6 § 1; Ord. 2008 c. 8)

4-4.2 Definitions.

City of Boston Departments shall mean those City of Boston Departments, Authorities, Agencies, and any Department or Agency acting on behalf of another ("Awarding Authorities") under the supervision of the Mayor or persons appointed by him.

City of Boston Minority and Women Business Enterprise Initiative (MWBE Initiative) means the initiative outlined in this section shall be referred to as and shall commence upon execution of the section.

Director shall mean the Director of the SLBE who, for the purposes of overseeing the implementation of this section, shall report directly to the Mayor or his specified designee concerning internal compliance with the section by the leadership and general ranks of City of Boston Departments.

Minority Business Enterprise (MBE) shall mean a business certified by the Small and Local Business Enterprise (SLBE) Office as a bona fide minority business.

MWBE shall mean Minority and Women Business Enterprise.

Women Business Enterprise (WBE) shall mean a business certified by the SLBE Office as a bona fide women business.

(Ord. 1987 c. 14 § 2; Ord. 1995 c. 6 §§ 2-12; Ord. 2008 c. 8)

4-4.3 Affirmative Marketing Policy.

a. The SLBE Office shall seek to identify those minority and women businesses that may benefit from this section, reach them with information and education regarding City contracting needs and policies, and encourage those businesses to participate in City contracts for goods and services.

b. To the extent not otherwise provided by statute and subject to G.L. c. 7 §§ 38A½-38O (Design Services), whenever any Department of the City announces contracting opportunities for professional services (architecture and engineering) for an amount less than \$25,000.00, the City shall seek proposals

from at least one MBE or WBE firm whose professional services (architecture and engineering) qualify as such under the City's 2003 Disparity Study. (Ord. 1987 c. 14 § 3; Ord. 1994 c. 18 § 3; Ord. 1995 c. 6 § 13; Ord. 2008 c. 8)

4-4.4 Policy Implementation.

a. The SLBE Office shall have primary oversight authority of the MWBE Initiative.

b. The SLBE Office shall have primary responsibility for implementation of MWBE outreach efforts. In order to fulfill this responsibility, the SLBE Office shall be responsible for providing the resources to each Department to achieve maximum MWBE participation in Department contracts.

c. The SLBE Office shall be responsible for educating City Departments regarding the requirements of this section and shall guide Departments in their efforts to document and report MWBE participation.

d. The SLBE Office shall be responsible for monitoring the effectiveness of Departmental efforts and the participation of MBE/WBEs in City of Boston contracts for goods or services. The SLBE Office shall maintain records required or reasonably necessary to monitor such participation.

e. The SLBE Office shall develop and maintain a directory of certified MBEs and WBEs to be published on the SLBE Office's website. The directory shall be updated on a bi-monthly basis. (Ord. 1987 c. 14 § 5; Ord. 1994 c. 18 § 4; Ord. 1995 c. 6 §§ 15, 16; Ord. 2008 c. 8)

4-4.5 Compliance and Enforcement.

a. The SLBE Office shall be responsible for monitoring and enforcing this section. (Ord. 1987 c. 14 § 6; Ord. 1994 c. 18 § 5; Ord. 1995 c. 6 § 17; Ord. 1996 c. 14; Ord. 2001 c. 11; Ord. 2008 c. 8)

4-4.6 Data Collection.

a. The SLBE Office shall collect and the City's Departments shall provide data from all parties affected by this section. This data shall include but not be limited to the following:

1. Business name, address, telephone number, and name/title of the vendor;

2. The MWBE status of vendor;

3. Any unique identification code or number for the vendor;

4. A brief description of services to be performed by the vendor;

5. Date and dollar amount of contract award;

6. Funding source of contract; and

7. Start and end dates of the contract.

b. The data shall be submitted in conformity with the schedule and reporting format developed by SLBE.

c. Data shall be collected for informational purposes and shall not be used in a discriminatory manner.

d. All City Departments shall require any vendor affected by this section to submit the data required under subsection 4-4.6(a) as part of the standard billing/payment submission process.

e. All City Departments shall report to the Mayor and the City Council on a quarterly basis each department's contracting activities, including utilization of Minority and Women Owned Business Enterprises. (Ord. 2008 c. 8)

4-4.7 Waiver.

If a City Department determines that circumstances exist which prevent it from complying with this section, then such Department may request from the SLBE Office an exemption from compliance with the provisions of this section. (Ord. 2008 c. 8)

4-4.8 Conformity with Existing State and Federal Law.

The City of Boston MWBE Initiative shall be implemented in conformity with any and all state and federal law, including but not limited to the statutory standards set forth in the Massachusetts Construction Reform Law, Chapter 193 of the Acts of 2004, and the revisions it made to M.G.L. c. 23A, §44 and M.G.L. c. 7, § 40N.
(Ord. 2008 c. 8)

4-4.9 Severability.

The provisions of this section are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions which shall remain in full force and effect.
(Ord. 1987 c. 14 § 8; Ord. 2008 c. 8)

4-4.10 Effective Date.

This section shall take effect upon passage.
(Ord. 1987 c. 14 § 9; Ord. 1992 c. 14 § 1; Ord. 1993 c. 8 § 1; Ord. 1994 c. 7 § 1; Ord. 1994 c. 18 § 2; Ord. 1995 c. 6 § 18; Ord. 2000 c. 7; Ord. 2001 c. 11; Ord. 2008 c. 8)

4-5 REQUIRING HARMONY IN CONSTRUCTION CONTRACTS.

4-5.1 Policy Statement.

It is the policy of the City of Boston to insure that all City departments, authorities, commissions and agencies serving as awarding authorities for contracts for new construction, rehabilitation, renovation or remodeling work require the contractor and/or sub-contractor to certify in writing that he or she shall furnish labor who can and will work in harmony with all other labor employed in any work or at the worksite which is the subject of the written contract.
(Ord. 1989 c. 3 § 100)

4-5.2 Continuance of this Section Until Repealed.

The requirements contained herein shall continue in effect unless specifically repealed, notwithstanding any repeal of G.L. c. 30, § 39M(c).
(Ord. 1989 c. 3, § 101)

[§ 4-6 begins on page 413]

4-6 EMPLOYMENT AND COMPENSATION OF CONSULTANTS.

4-6.1 Definitions.

Consultants or *Contractors* shall mean any person or organization who, as a non-employee of the City of Boston, gives advice in the field of his/her knowledge or training, or provides a service, and whose compensation is payable from other than the salary and wage account as identified in the City of Boston Budget Code.

This person or organization does not have to be in a supervisory role but merely identified as a non-employee of the City of Boston.

Employee shall mean any person whose compensation is payable from the salary and wage account as identified in the City of Boston Budget Code and shall not include people on the Trustee Payroll of Boston City Hospital.
(Ord. 1989 c. 12, § 1)

4-6.2 Replacement of Unionized Employees by Consultant or Contractor Contracts Prohibited.

Consultant or contractor contracts shall not be used to replace any positions currently held by unionized employees of the City of Boston or fill any vacant union positions.
(Ord. 1989 c. 12, § 2)

4-6.3 Restriction on Hiring of Consultants to Supervise City Employees.

After the effective date of this section unless an emergency situation exists and a waiver is approved by the Mayor and City Council, no person shall be hired by the City as a consultant or contractor, so-called, to directly or indirectly supervise another temporary, provisional or permanent employee of the City of Boston. This shall not apply to current consultant/contractor contracts or their reapproval.
(Ord. 1989 c. 12, § 3)

4-6.4 Effective Date.

This section shall take effect immediately.
(Ord. 1989 c. 12, § 4)

4-7 CORI SCREENING BY VENDORS OF THE CITY OF BOSTON.

4-7.1 Purpose.

These sections are intended to ensure that the persons and businesses supplying goods and/or services to the City of Boston deploy fair policies relating to the screening and identification of persons with criminal backgrounds through the CORI system.
(Ord. 2005 c. 7)

4-7.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in CBC 4-7.

Applicant means any current or prospective employee, licensee, or volunteer and includes all persons included in 803 CMR 2.03.

Awarding authority means any department, agency, or office of the City of Boston that purchases goods and/or services from a vendor.

CHSB means the Criminal History Systems Board defined in M.G.L. c. 6 and 803 CMR 2.00.

City means the City of Boston or department, agency, or office thereof.

Otherwise qualified means any applicant that meets all other criteria for a position or consideration for a position.

Vendor means any vendor, contractor, or supplier of goods and/or services to the City of Boston.
(Ord. 2005 c. 7)

4-7.3 CORI-Related Standards of the City of Boston.

The City of Boston will do business only with vendors that have adopted and employ CORI-related policies, practices, and standards that are consistent with City standards.

The City of Boston employs CORI-related policies and practices that are fair to all persons involved and seeks to do business with vendors that

have substantially similar policies and practices. The awarding authority shall review all vendors' CORI policies for consistency with City standards. The awarding authority shall consider all vendors' CORI standards as part of the criteria to be evaluated in the awarding of a contract and will consider a vendor's execution of the CORI standards to be evaluated among the performance criteria of a contract. The awarding authority shall consider any vendor's deviation from the CORI standards as grounds for rejection, rescission, revocation, or any other termination of the contract.

The CORI-related policies and practices of the City include, but are not limited to:

a. The City does not conduct a CORI check on an applicant unless a CORI check is required by law or the City has made a good faith determination that the relevant position is of such sensitivity that a CORI report is warranted.

b. The City reviews the qualifications of an applicant and determines that an applicant is otherwise qualified for the relevant position before the City conducts a CORI check. The City does not conduct a CORI check for an applicant that is not otherwise qualified for a relevant position.

c. If the City has been authorized by the CHSB to receive CORI reports consisting solely of conviction and case-pending information and the CORI report received by the City contains other information (i.e. cases disposed favorably for the applicant such as not guilty, dismissal) then the City informs the applicant and provides the applicant with a copy of CHSB's information for the applicant to pursue correction.

d. When the City receives a proper CORI report of an applicant that contains only the CORI information that the City is authorized to receive and the City is inclined to refuse, rescind, or revoke the offer of a position to an applicant then the City fully complies with 803 CMR 6.11 by, including, but not limited to, notifying the applicant of the potential adverse employment action, providing the applicant with a photocopy of the CORI report received by the City, informing the applicant of the specific parts of the CORI report that concern the City, providing an opportunity for the applicant to discuss the CORI report with the City including an opportunity for the

applicant to present information rebutting the accuracy and/or relevance of the CORI report, reviewing any information and documentation received from the applicant, and documenting all steps taken to comply with 803 CMR 6.11.

e. The City makes final employment-related decisions based on all of the information available to the City, including the seriousness of the crime(s), the relevance of the crime(s), the number of crime(s), the age of the crime(s), and the occurrences in the life of the applicant since the crime(s). If the final decision of the City is adverse to the applicant and results in the refusal, rescission, or revocation of a position with the City then the City promptly notifies the applicant of the decision and the specific reason(s) therefor. (Ord. 2005 c. 7)

4-7.4 Waiver.

Under exigent circumstances, an awarding authority, by its highest ranking member, may grant a waiver of CBC 4-7.3 on a contract-by-contract basis and shall submit a written record of the waiver to the Office of Civil Rights and to the Boston City Council's Staff Director who shall provide a copy to each and every City Councillor. The written record shall include, but not be limited to, (a) a summary of the terms of the contract, (b) the details of the vendor's failure or refusal to conform with the City's CORI-related standards, and (c) a brief analysis of the exigency causing the grant of waiver.

No waiver may be considered perfected unless the awarding authority fully complies with the provisions of this sub-section. (Ord. 2005 c. 7)

4-7.5 Data Collection and Report.

Any awarding authority, vendor, applicant, or other interested party may contact the Office of Civil Rights to report any problems, concerns, or suggestions regarding the implementation, compliance, and impacts of these sections, and the Office of Civil Rights shall log every comment received with a summary of the comment and shall keep on file any written comments. Subsequent to logging any comment, the Office of Civil Rights may refer a complaint to the CHSB and shall notify the relevant awarding authority. The Office of Civil Rights shall prepare a written report including, but not

limited to, a summary of the granted waivers, a summary of any feedback regarding CORI-related policies and/or practices, and any other information or analysis deemed noteworthy by the Director of the Office of Civil Rights. The Office of Civil Rights shall file the report with the Boston City Council via the Boston City Clerk every six (6) months from the implementation date of these sections.
(Ord. 2005 c. 7)

4-7.6 Applicability.

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.
(Ord. 2005 c. 7)

4-7.7 Regulatory Authority.

The Office of Civil Rights shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections and may promulgate a form of the affidavit.
(Ord. 2005 c. 7)

4-7.8 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2005 c. 7)

4-7.9 Implementation.

The provisions of these sections shall be effective on July 1, 2006.
(Ord. 2005 c. 7)

CHAPTER V

ADMINISTRATION

5-1 ADMINISTRATIVE SERVICES DEPARTMENT.

5-1.1 Administrative Services Board; Appointment and Term of Members.

There shall be in the City a Department, known as the Administrative Services Department, which shall be under the charge of a Board, known as the Administrative Services Board, consisting of an officer, known as the Director of Administrative Services, who shall be Chairman of the Board, an officer known as the Deputy Director of Administrative Services for Fiscal Affairs, an officer known as the Supervisor of Budgets, an officer known as the Supervisor of Labor Relations, an officer known as the Supervisor of Personnel, an officer known as the Purchasing Agent, and the Commissioner of Assessing, the City Auditor and the Collector-Treasurer, ex officio. The Director Administrative Services, the Deputy Director of Administrative Services for Fiscal Affairs, the Supervisor of Budgets, the Supervisor of Labor Relations, and the Purchasing Agent shall each be appointed by the Mayor for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected, and shall devote their whole time to the duties of their respective offices. The Supervisor of Personnel shall be appointed by the Mayor, and hold office, subject to the Civil Service laws and rules, and shall devote his whole time to the duties of his office. The Director of Administrative Services shall exclusively have the powers, and perform the duties, of a department head with respect to the appointment, suspension, discharge, compensation and indemnification of subordinates for the Administrative Services Department and the several officers thereof. (Ord. 1953 c. 8 § 9; Ord. 1956 c. 3 § 2; Ord. 1961 c. 1 § 3; Ord. 1968 c. 2 § 2; Rev. Ord. 1961 (Sup. 1971) c. 4 § 1; Ord. 1974 c. 5 § 2; CBC 1975 Ord. T5 § 1)

5-1.2 Duties of Director.

It shall be the duty of the Administrative Services Board, and more especially of the Director of Administrative Services, to make, under the Mayor, studies and recommendations with respect to the organization, activities, policies and procedures of all Departments, Boards and officers so that the administration thereof shall be economical and efficient. The Administrative Services Board shall divide the Administrative Services Department from time to time into such divisions as said Board shall adjudge necessary for the proper conduct of the Department. The Director of Administrative Services shall, from time to time, as written studies and recommendations are made by him or by the Administrative Services Board, and at such times as the City Council may order, file a copy thereof with the City Clerk for transmission to the City Council, and shall cause to be included in the annual report of said Board, summaries of all such studies and recommendations.

Unless otherwise provided by law, it shall be the responsibility of the Director of Administrative Services to provide the City Council with access, during regular business hours, to all information contained within all electronic data retrieval system owned or leased by the City through a terminal located in the City Council Chambers.

The Director of Administrative Services shall also provide the City Council with a listing of all such retrieval systems currently in use and all changes or additions to such systems as they occur, together with appropriate access codes for entry into all such systems.

Failure by the Director of Administrative Services to comply with the provisions of this ordinance shall be punishable by a fine not to exceed

two hundred (\$200.00) dollars. Every day during which such noncompliance shall exist shall be considered a separate offense.

(Rev. Ord. 1961 c. 4 § 2; CBC 1975 Ord. T5 § 2; Ord. 1981 c. 2)

5-1.3 Duties of Deputy Director.

The Deputy Director of Administrative Services for fiscal affairs shall, under the direction of the Mayor, and in consultation with the Director of Administrative Services, review all aspects of the fiscal affairs of the City and make recommendations for continual modernization and improvement in the basic fiscal policies and procedures of the City, including, but not limited to, the means by which the budget can be used to effectuate policy decision. The Deputy Director of Administrative Services shall be the Chief Procurement Officer of the City for the purposes set forth in chapter 30B of the General Laws. (Ord. 1968 c. 2 § 1; Rev. Ord. 1961 (Sup. 1971) c. 4 § 2A; CBC 1975 Ord. T5 § 3; Ord. 1991 c. 1 § 1)

Cross-reference:

Ord. Sec. 2-13

5-1.4 Duties of Supervisor of Labor Relations.

The Supervisor of Labor Relations shall, under the direction of the Mayor, and in consultation with the Director of Administrative Services, review all aspects of the labor relations of the City and make recommendations for their improvement, represent the Mayor in all collective bargaining in which the City is involved, and by himself or through assistants appear in all grievance, arbitration, and court proceedings involving labor relations.

This ordinance shall be deemed to be made under Section 5 of Chapter 486 of the Acts of 1909, as amended by Section 1 of Chapter 473 of the Acts of 1953, and shall be so construed that no person holding, whether under general or special law or otherwise, an office or position subject to the Civil Service laws and rules shall, by reason of the adoption of this ordinance, be without a similar office or position or be reduced in rank or compensation.

(Rev. Ord. 1961 c. 4; Ord. 1968 c. 2; Ord. 1974 c. 5 §§ 3, 4; CBC 1975 Ord. T5 § 4)

5-1.5 Duties of Supervisor of Budgets.

The Supervisor of Budgets shall, under the direction of the Mayor and in consultation with the Director of Administrative Services, prepare in segregated form the annual and all supplementary budgets to be submitted by the Mayor to the City Council, and shall report to the Mayor on all subsequent revisions of the items of any budget. The Supervisor of Budgets shall also prepare, under the direction of the Mayor and in consultation with the Director of Administrative Services, all transfer order to be submitted by the Mayor to the City Council under Section 3B of Chapter 486 of the Acts of 1909. The Supervisor of Budgets shall further prepare, under the direction of the Mayor and in consultation with the Director of Administrative Services, the form of estimate sheets to be used by each Officer, Board and Department, and each Division of a Department, for which the City appropriates money, and the form of monthly report of such Officer, Board and Department, and each division thereof, showing expenditures to date of all appropriations by item. In order to assist in the implementation of the provisions of Section 16 of Chapter 486 of the Acts of 1909, for each agency to which funds are appropriated, it shall be the responsibility of the Supervisor of Budgets to establish and supervise a system of monthly allotments of the funds in each budget item approved by the City Council; and, except in extreme emergency, as provided by said Section 16, no official in charge of any agency shall expend in any month any sum in excess of said budget item allotment except upon recommendation of the Supervisor of Budgets with the approval of the Mayor and City Council. The Supervisor of Budgets shall, in addition, have the powers and perform the duties conferred or imposed on the Budget Commissioner by any statute other than Section 56 of Chapter 35 of the General Laws. There shall be a fine of two hundred (\$200.00) dollars for each violation of this ordinance.

(St. 1909 c. 486 § 3B; Ord. 1956 c. 3 § 3; Rev. Ord. 1961 c. 4 § 3; CBC 1975 Ord. T5 § 5; Ord. 1979 c. 27)

Cross-reference:

G.L. c. 35 § 56

5-1.6 Duties of Supervisor of Personnel.

The Supervisor of Personnel shall:

a. Establish and maintain personnel records, as complete as practicable, for all persons in the service of the City;

b. Make a continuing study of personnel problems, employment conditions and economic changes affecting the several departments of the City;

c. Recommend, from time to time to the Mayor and the several officers appointing subordinates, programs designed to provide opportunities for career service within the City and administrative policies tending to improve and coordinate the handling of personnel matters including providing annually to each City of Boston employee a statement of the City of Boston's child care policy for City employees and a complete listing of all licensed child care centers in the City of Boston; and

d. Supervise the administration of all compensation plans established for employees of the City and recommend such changes in those plans as from time to time shall seem to him necessary or advisable; and

e. Have the powers and perform the duties conferred or imposed on the Budget Commissioner by Section 56 of Chapter 35 of the General Laws. The Supervisor of Personnel shall furnish the Supervisor of Budgets such assistance as said Supervisor shall require in connection with the performance by said Supervisor of his duties under subsection 5-1.5. (Rev. Ord. 1961 c. 4 § 4; CBC 1975 Ord. T5 § 6; Ord. 1987 c. 16)

Cross-reference:

G.L. c. 35 § 56.

5-1.7 Personnel Practices in Youth Activities Commission.

The Supervisor of Personnel, on or before September 1, 1979, shall establish, subject to approval of the City Council, rules and regulations to govern personnel in the Youth Activities Commission which shall:

a. Insure that for all appointments to positions within the Commission, made after June 30, 1979, every reasonable effort shall be made to guarantee any resident of the City, who is qualified for any such position, timely notice that such position is available,

reasonable opportunity to apply for such position and equal opportunity with all qualified applicants for appointment.

b. Insure that all employees of the Commission have equal opportunity for promotion, pay increases or other job-related benefits based on their training, experience and work performance as such employees.

c. Insure that any such employee is given an opportunity to join a collective bargaining unit, if he or she so chooses, without interference from any official or employee of the City.

In addition, it shall also be the responsibility of said Supervisor, on or before September 1, 1979, to establish and submit to the City Council, job descriptions and qualifications for all positions within the Commission excepting that of Commissioner. (Ord. 1979 c. 26)

5-1.8 Duties of Purchasing Agent.

The Purchasing Agent shall, when satisfied of the legality of any requisition in writing signed by the officer in charge of a department requiring material or supplies of any kind, at once comply with such requisition and furnish the material or supplies requisitioned, shall require suitable evidence that the material or supplies furnished are accepted by the officer issuing the requisition, and shall keep suitable records of all requisitions received and materials and supplies furnished.

(Rev. Ord. 1961 c. 4 § 5; CBC 1975 Ord. T5 § 7)

5-1.9 Printing Plant; Union Label.

The Purchasing Agent shall have charge of the printing plant, shall, when satisfied of the legality of any requisition in writing signed by any officer to whom the City is required by law to furnish printing or binding, supply the printing or binding requisitioned, and shall, wherever practicable, standardize all such printing and binding. All printed matter done for the City shall, so far as it can legally do so, bear the imprint of the union label of the Allied Printing Trades Council of Boston.

(Ord. 1901 c. 1; Rev. Ord. 1961 c 4 § 6; CBC 1975 Ord. T5 § 8)

5-1.10 City Documents.

The Purchasing Agent shall number and print as City Documents copies of the Mayor's Inaugural or Annual Address, the Department Reports and such other matter as may be ordered to be printed in the form of a City document by the City Council or by the Mayor. The number of copies of each document to be printed shall, unless specified by the City Council, be determined by the Mayor; provided, however, that the minimum shall be one hundred (100), of which fifty (50) copies shall be bound in sets of volumes containing all such City documents with an alphabetical index. All City documents and sets of volumes shall be delivered to the City Messenger and distributed in such manner as the City Council may direct. The fee chargeable for any available printed City documents provided by the City Council to persons other than City Departments shall be:

a. Fifty (\$.50) cents for documents measuring six inches by nine inches (6" x 9") or less and numbering fewer than twenty-five (25) pages;

b. One (\$1.00) dollar for documents measuring six inches by nine inches (6" x 9") or less and numbering between twenty-five (25) and one hundred (100) pages;

c. Two (\$2.00) dollars for documents measuring six inches by nine inches (6" x 9") or less and numbering more than one hundred (100) pages;

d. Two dollars and fifty (\$2.50) cents for documents eight and one-half inches by eleven inches (8 ½" x 11") and numbering fewer than one hundred (100) pages;

e. Three dollars and fifty (\$3.50) cents for documents eight and one-half inches by eleven inches (8 ½" x 11") and numbering more than one hundred (100) pages;

f. Fifteen (\$15.00) dollars for a copy of the book entitled "Boston's Streets" and fifteen (\$15.00) dollars for a copy of the book entitled "City of Boston, Municipal Register".

The fees shall be collected by the Staff Director or the Librarian of the City Council and used to defray the cost of obtaining printed documents.

Special publications shall from time to time, be printed on the order of the City Council approved by the Mayor to which the provisions of this section, except as to distribution shall not apply.

(Rev. Ord. 1961 c. 4 § 7; CBC 1975 Ord. T5 § 9; Ord. 1978 c. 3; Ord. 1990 c. 11; Ord. 1999 c. 1)

5-2 ART COMMISSION.

5-2.1 Art Commissioners; Appointment, Term, Compensation, Powers and Duties.

There shall be within the Office of the Arts and Humanities a Board, known as the Art Commission, consisting of five (5) Commissioners, all of whom shall be residents of the City of Boston, appointed by the Mayor as follows: - one from three (3) candidates nominated by the Boston Society of Architects, one from three (3) candidates nominated by the Copley Society of Boston, one from three (3) candidates nominated by the Museum of Fine Arts, one from (3) candidates nominated by the Trustees of the Public Library of the City of Boston, and the executive director of the Office of the Arts and Humanities ex officio who shall serve without additional compensation. As the term of any Commissioner in office expires, his successor shall be appointed as such Commissioner for a term of five (5) years. Vacancies in the Commission shall be filled for the unexpired term. The members of the Art Commission shall serve without compensation. Any Secretary elected by the Commission outside of its own members shall also serve without compensation.

The Art Commission shall not be subject to the supervision or control of the Office of the Arts and Humanities or any member thereof; but unless otherwise ordered by the Mayor, the Art Commission shall not communicate with the Mayor except through the Executive Director of the Office of the Arts and Humanities and shall not make any annual or other report except through the Office of the Arts and Humanities.

The Art Commission shall have the powers and perform the duties conferred or imposed by law on the Board of Art Commissioners in existence immediately prior to the taking effect of Chapter 8 of the Ordinances of 1953.

(St. 1898 c. 410; Sp. St. 1919 c. 87; Ord. 1953 c. 8 § 9; Rev. Ord. 1961 c. 4 § 8; CBC 1975 Ord. T5 § 10; Ord. 1986 c. 4 § 2)

5-3 PUBLIC SAFETY COMMISSION.

5-3.1 Established; Powers and Duties.

There shall be in the Administrative Services Department, the Board, known as the Public Safety Commission, provided for by Section 1 of Chapter 203 of the Acts of 1959. Said Board shall exercise the powers and perform the duties provided by statute. (St. 1959 c. 203 § 1; Rev. Ord. 1961 C. 4 § 9; CBC 1975 T5 § 11)

5-4 DEPARTMENT OF FEDERALLY FUNDED AGENCIES.

5-4.1 Federally Funded Agencies Board; Appointment and Terms.

There shall be in the City of Boston a Department known as the Department of Federally Funded Agencies. This Department shall be under the charge of a Board, known as the Board of Federally Funded Agencies, consisting of an officer known as the Commissioner of Federally Funded Agencies, appointed by the Mayor for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected, who shall be the Chairman of the Board and two (2) other officers known as Associate Commissioners of Federally Funded Agencies, each likewise appointed by the Mayor for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected. (Ord. 1979 c. 21)

5-4.2 Powers and Duties.

The Commissioner of Federally Funded Agencies shall exclusively have the powers, and perform the duties of a Department head with respect to the appointment, suspension, discharge, compensation and indemnification of subordinates for the Department; but otherwise, all powers and duties shall be exercised by the Board, and the Commissioner as a member of said Board.

It shall be the duty of the Department to determine what funds are available from the United States of America to assist the City and its people, to

obtain and to monitor the expenditure of all such funds, and to administer all agencies within the Department.

Any agency, purporting to be a City agency, funded to an extent of fifty (50%) percent or more by such funds, existing on July 1, 1978, and continuing to exist on the date on which this ordinance is in force, which was not created and presently existing by previous ordinance, is hereby created and shall be in and subject to the administrative control of this Department.

The Department of Federally Funded Agencies shall serve as a liaison between the City of Boston and the various Federal agencies providing funds to municipalities, informing said agencies of the City's needs with respect to federal programs and assistance; shall seek out and provide all Boston municipal agencies with Federal funding information of import to said agencies, shall procure, distribute, and monitor the expenditure of Federal funds to insure compliance with Federal law, rules, regulations and all other applicable laws, ordinances, rules and regulations. All officers and employees of the Department shall be subject to the residency and/or voter registration requirements established by ordinance. (Ord. 1979 c. 21)

5-4.3 Divisions Within Department.

There shall be in the Department the following three (3) Divisions:

a. A Division of Information, Application and Distribution; a Division of Federal, State and Municipal Compliance; and a Division of Administration. The Division of Administration shall be under the direction, control and supervision of the Commissioner. Each of the other divisions shall be under the direction, control, and supervision of an Associate Commissioner.

b. It shall be the duty of said Division of Information, Application and Distribution to serve as liaison between the City of Boston and the various Federal agencies providing funds to the City to inform such Federal agencies of the City's need with respect to existing Federal programs and assistance, to encourage the establishment of new sources of Federal funding to aid the City, to provide Boston municipal

agencies with all relevant Federal funding information, to assist said agencies in applying for such funding and to distribute such Federal funds to all City agencies which are funded to any extent by such funds. In the interest of efficiency in the implementation of such information, application and distribution functions, said Division shall maintain a Washington, D.C., office to be under the direction, control and supervision of the Associate Commissioner for the Division of Information, Application and Distribution.

c. The Division of Administration shall contain all City agencies which are funded to an extent of fifty (50%) percent or more by such Federal funds. It shall be the duty of said Division to administer such subordinate agencies within said Division and, in performing this function, to coordinate the activities and expenditure of all such subordinate agencies within said Division.

d. It shall be the duty of the Division of Federal, State and Municipal Compliance to monitor the expenditure of such funds by municipal agencies. In serving as monitor, said Division shall insure that municipal agencies receiving such Federal funds comply with all State and Federal laws, rules, regulations and funding guidelines and all other applicable laws, ordinances, rules and regulations. (Ord. 1979 c. 21)

5-4.4 Annual Report.

On or before April 15, 1980, and on or before April 15 of each succeeding year, such Department shall report in writing to the Mayor and City Council. Such report shall include, but not be limited to, a report on all funds received by the City from the United States of America for the twelve (12) month period ending on the previous June 30th, how much of such funds were used by the Department as administrative expense, how much of such funds were distributed to each City agency, how much of such funds distributed to each such agency were used by such agency as administrative expense, and if the Department or City agency which is funded in whole or in part by such funds contracts for services, how much of the funds received by the contractor for such services were used for administrative purposes by the contractor, a narrative style account of the activities of the Department during the year covered by the report

and the goals and outlook for the Department in the immediately succeeding years.
(Ord. 1979 c. 21)

5-4.5 Appoints to Subordinate Positions.

a. If for any reason any appointment to a position within the Department, excepting that of Commissioner or Associate Commissioner, is not made in accordance with the provisions of Chapter 31 of the General Laws, it shall be the responsibility of the Department to forthwith establish and promulgate, subject to approval of the City Council rules and regulations which shall:

1. Insure that for all appointments to positions within the Department made after June 30, 1978, every reasonable effort shall be made to guarantee any resident of the City, who is qualified for any such position, timely notice that such position is available, reasonable opportunity to apply for such position and equal opportunity with all qualified applicants for appointment. All positions established and all appointments to positions in agencies within the Department, excepting that of Commissioner and Associate Commissioner, made after June 30, 1978, are hereby abolished and cancelled as of July 1, 1979, and if reestablished and new appointments made, such appointments shall be made in accordance with this paragraph.

2. Insure that all employees have equal opportunity for promotion, pay increases or other job-related benefits based on their work performance as such employees.

3. Insure that any employee is protected in his or her employment against any inequitable threat of demotion, loss of pay, job termination, or other unfair labor or discriminatory practice.

4. Insure that any employee is given an opportunity to join a collective bargaining unit, if he or she so chooses, without interference from any official or employee of the City.

b. In addition, it shall also be the responsibility of the Department to forthwith establish and promulgate, subject to approval of the City Council, job descriptions for all positions within the

Department which are not filled in accordance with the provision of Chapter 31 of the General Laws.

c. The provisions of this section, however, shall not apply to public service employment positions under the Federal Comprehensive Employment and Training Act which have been filled by lottery, or otherwise.

(Ord. 1979 c. 21)

5-5 BOARDS, DEPARTMENTS: OFFICERS, SUBORDINATES AND EMPLOYEES.

5-5.1 Acceptance of Office.

Every officer appointed by the Mayor or elected by the City Council, unless removed from office in accordance with law or unless such person leaves office by voluntary resignation, shall continue to hold office until his successor is appointed or elected and duly qualified. No such officer shall submit a resignation prior to taking office, and shall, at the time of taking office, submit to the City Clerk, for transmittal to the City Council, a written affidavit duly sworn and witnessed by a notary public, certifying that such person has not submitted any such resignation to the appointing official or body. The Mayor, within five (5) days of receipt of any resignation from such officer or within five (5) days after the expiration of any such officer's term, shall communicate such fact in writing to the City Clerk for notification to the City Council at its next Council meeting. Every such officer shall subscribe in a book, to be kept by the City Clerk for that purpose, a statement that he accepts his office subject to the statutes and ordinances; whoever violates any provision of this ordinance shall be punished by a fine not to exceed two hundred (\$200.00) dollars each day, or part thereof, during which such violation exists shall be considered a separate offense.

(St. 1885 c. 266 § 4; St. 1980 c. 418; Ord. 1883 c. 10; Rev. Ord. 1961 c. 3 § 1; CBC 1975 T5 § 100; Ord. 1979 c. 42)

5-5.2 Residency and Voting Requirements for Certain Officers.

Each officer appointed by the Mayor or elected by the City Council and every person who for a period of more than ninety (90) days acts in place of such an

officer, except those officers appointed by the Mayor under the provisions of subsection 5-5.6 of this chapter, shall be, or within the six (6) months next following the date of his acceptance of office shall become, both a resident and registered voter of the City of Boston and each such officer shall continue to be both a resident and a registered voter of the City of Boston during his term of office. This section shall not apply to those officers serving in positions without compensation except for reimbursement for expenses actually incurred in the performance of official duties, or to persons acting in place of such officers. If any such officer shall during his term of office remove from the City of Boston or cease to be a registered voter therein he shall be deemed to have become disqualified from holding his office as of the date of such removal or such cessation. Each officer affected by this section shall upon his acceptance of office or within the six (6) months next following thereupon, in writing and under the penalties of perjury, certify to the City Clerk that he is both a resident and a registered voter of the City of Boston. If, upon the expiration of the six (6) months next following his acceptance of office, any such officer shall not have so certified to the City Clerk that he is both a resident and a registered voter of the City of Boston, he shall be deemed disqualified from holding his office, and the City Clerk shall forthwith so notify the Mayor, the City Council, and the Collector-Treasurer. Upon receipt of such notification the Collector-Treasurer shall strike from the payroll the name of any such officer and shall cause no further payments of salary or other compensation to be made thereto. No person deemed disqualified hereunder shall be appointed or elected to any office subject to the provisions of this section for a period of one year next after the date he becomes disqualified unless he shall before the date of such election or appointment have become both a resident and a registered voter of the City of Boston. This section shall not apply to any person in office on the date of the adoption of this section; provided, however, that this section shall apply to any such person upon the expiration of his current term of office whether or not his successor shall have been appointed or elected; and provided, further, that this section shall apply to any such person who shall be appointed or elected to another office to which this section applies upon the date of his acceptance of such other office. Those provisions of this section which require that an officer be a registered voter shall not apply to any person who is by law ineligible to vote if

such person shall certify to the City Clerk his ineligibility and the reason therefor.

(Rev. Ord. 1961 c. 3; Ord. 1973 c. 7; Ord. 1974 c. 11; CBC 1975 Ord. T5 § 101)

5-5.3 Residency Requirement.

Every person first employed by the City of Boston on or after July 1, 1976, shall be a resident of the City of Boston, and shall not cease to be a resident of the City of Boston during his employment by the City. For the purposes of this ordinance, an employee shall be any person receiving monies from the City or the Boston Water and Sewer Commission subject to withholding taxes by the State or Federal Government, except principal employees and officers subject to the provisions of subsection 5-5.2 hereof.

All persons promoted by the City on or after July 1, 1976, shall be, or within one year of such promotion become, a resident of the City as defined herein. Failure to do so shall be determined to be a voluntary termination of employment.

Upon taking employment with the City, and annually on February first thereafter, every person subject to this section shall file with his or her Department head, or like officer, a certificate, signed under the pains and penalties of perjury, stating his or her name, and place of residence. A copy of every such certificate shall be transmitted by the Department head or like officer to the Boston Residency Compliance Commission within five (5) business days of filing. Upon receipt of a certificate indicating a place or residence not within the City of Boston, or if no such certificate is filed, the Department head or like officer shall forthwith strike the name of the employee from the payroll, that person shall cease to be employed by the City, and the Department head or like officer shall give notice of his action to the City Clerk, who shall transmit the same to the City Council, the Mayor, and the Collector-Treasurer. No person so stricken from a payroll, shall be reemployed by the City for a period of one year following the cessation of his or her employment. Every employee shall be furnished a copy of the residency ordinance when hired and annually thereafter, but failure to receive a copy shall not be held to excuse any violation.

Any person, acting in behalf of the City who makes payment of wages to any person stricken from a payroll under the provisions hereof, within one year of the date of striking, and any person accepting such payment, shall be punished by a fine of two (\$2.00) dollars for each dollar so paid or accepted.

To the extent permissible by law, no collective bargaining agreement hereafter entered into by the City of Boston shall contain any provision contrary to the provisions hereof, nor shall the absence of any provision with respect to the residency of any person hired after the date of such contract be deemed to prevent enforcement of this section.

To the extent permitted by Chapter 31 of the General Laws, every examination held to establish a Civil Service list for employment by the City of Boston shall be restricted to City of Boston residents.

In the event that this section shall be deemed to be in conflict with a provision of any general or special law, the provision of that general or special law shall govern, and shall not defeat the application of this ordinance with respect to any position not governed by that law.

The provisions hereof shall not be waived by the Mayor nor the City Council with respect to a particular person or position. With respect to previous waivers exempting a particular person or position from the residency requirement, such waivers shall continue until such time as the waived individual terminates employment or the waived position becomes vacant.

The provisions hereof are severable, and the action of any court of competent jurisdiction in declaring any part or portion hereof invalid, shall not act to defeat any remaining part or portion hereof, and any such action declaring this section invalid with respect to any position or person shall not be held to apply to any other person or position.

In construing this ordinance, residence shall be the actual principal residence of the individual, where he or she normally eats and sleeps and maintains his or her normal personal and household effects. This

ordinance shall be deemed to affect both Civil Service and non-Civil Service employees of the City. (Ord. 1976 c. 9; Ord. 1994 c. 10 §§ 1-4; Ord. 1995 c. 7 § 1)

5-5.4 Selection Process for Applicant for Provisional or Temporary Positions.

a. No appointment on a provisional or temporary basis made to any position in a City or County agency, Department or Commission or in any agency funded to the extent of fifty (50%) percent or more by funds whose expenditure by law requires approval of the City Council, unless such appointment is made in compliance with one of the three (3) ensuing lettered paragraphs.

1. The position is filled by appointment from a duly certified Civil Service list of eligible candidates for the position established under the provisions of Chapter 31 of the General Laws of Massachusetts.

2. The position is filled by the Office of Personnel within the Administrative Services Department in the following manner:

(a) An advertisement inviting applications of such positions shall be placed on one of the first six (6) pages in at least two (2) daily newspapers of general circulation in the City of Boston thirty (30) days prior to the closing date for accepting such applications, setting forth a period of not less than four (4) weeks during which applications will be accepted, the closing date for acceptance of applications; a job description; the specific educational and prior work experience, including experience in a permanent position within the department agency, if any, actually needed in order to successfully perform the work; the office within City or County government to which applications or inquiries may be made during regular business hours; the proposed salary of such position; and all other information reasonably relevant to prospective applicant, including the number of appointments to be made to that position if more than one.

(b) Applicants for such positions in City service shall, at the time of application, reside within the City of Boston, and applicants for such

position in County service shall reside within Suffolk County at the time of application.

(c) Upon expiration of the application period, the names of all persons meeting such eligibility requirements shall be inscribed on individual pieces of paper which shall be folded twice and placed in suitable container by the Supervisor of Personnel or his designee; at a public place to which all such eligible applicants shall be invited, such supervisor or his designee then publicly shall draw out the pieces of paper individually and announce the names in the order in which they are drawn, and shall thereby establish the priority order in filling such position or positions.

(d) The Supervisor of Personnel shall present to the Mayor, the City Council, and the Auditor, within fifteen (15) days after the completion of each such drawing, a copy of the list of the names so drawn for such position or positions containing a statement sworn before a notary public and signed by him or his designee, that the procedures set forth in this paragraph b. were followed in establishing such list.

(e) Persons appointed through the eligibility and drawing process to positions on a quarterly or semi-annual basis may have reappointment pending preparation of a qualifying examination for Civil Service tenure in the position, but such employee shall not serve more than a year in total on a provisional basis.

(f) If several different positions are to be filled on a provisional basis, the Supervisor of Personnel may cause them to be listed in a single, comprehensive advertisement as long as particulars enumerated above are clearly set forth for each position.

3. No such position shall be filled in any such agency except in accordance with this ordinance unless otherwise expressly provided by ordinance. (Ord. 1977 c 8; Ord. 1979 c. 16 § 1)

b. This subsection shall not prohibit the reappointment of any person to the provisional or temporary position held by such person on the effective date of this subsection. (The effective date of this subsection is May 16, 1979) (Ord. 1979 c. 16 § 2)

5-5.5 Suspension of Employees; Order of Suspension.

In the event that employees of the City of Boston are to be laid-off or temporarily suspended from employment, employees who are residents of the City of Boston, as defined in subsection 5-5.3, shall be laid-off or temporarily suspended last and those employees who are not residents of the City of Boston, as defined in subsection 5-5.3, shall be laid-off or temporarily suspended first.

Any person laid-off or temporarily suspended from employment by the City of Boston as prescribed above may be rehired, provided however, that those persons who are residents of the City of Boston, as defined in subsection 5-5.3, shall have priority with regard to rehire.

If the provisions of this ordinance are in conflict with a contractual agreement between the employer (City of Boston) and the employee or an organization recognized to represent said employee the provisions of the contractual agreement shall rule. The provisions of this ordinance shall be applicable to Civil Service personnel only to the extent permitted by Chapter 31 of the General Laws.
(Ord. 1984 c. 11)

5-5.6 Bonds of Officers and Subordinates.

The Collector-Treasurer, Supervisor of Budgets, and the City Auditor, before, and the City Clerk, within five (5) days after, entering upon the duties of their respective offices and annually thereafter and at such other times as the Mayor shall determine, shall give bond to the City, in the case of the Collector-Treasurer, in the penal sum of five hundred thousand (\$500,000.00) dollars, in the case of the City Auditor, and the Supervisor of Budgets, in the penal sum of one hundred thousand (\$100,000.00) dollars, and in the case of the City Clerk, in the penal sum of five thousand (\$5,000.00) dollars.

Every bond given under this section shall be upon the condition that the person named therein as principal and all his subordinates shall, while he continues in office, by reappointment, re-election or otherwise, faithfully discharge their duties and trusts, and safely hold and lawfully dispose of and account for all money and other property belonging to the City

or County which may come into his possession or that of his subordinates; and that he shall deliver, according to law, to his successor in office or such other person as may be authorized to receive the same all money and other property in his possession or that of his subordinates belonging to the City or County. Every bond given under this section shall be executed by a surety company authorized to transact business in Massachusetts as surety, shall be approved by the Mayor, and shall be filed with the City Auditor except that the bond of the City Auditor shall be filed with the Collector-Treasurer.

(Ord. 1954 c. 2 § 6; Rev. Ord. 1961 c. 3 § 2; CBC 1975 Ord. T5 § 102; Ord. 1979 c. 23)

Cross-reference:

Ord. ss 6-3.4; CBC 1975 Ord. T6 § 1, 153

5-5.7 Personal Liability of Auditor and/or Collector-Treasurer.

In the event City funds are expended, with the approval of the City Auditor and/or Collector-Treasurer, in a manner contrary to the provisions of a City ordinance and such Auditor and/or Collector-Treasurer knows such expenditure to be in contravention of such ordinance, such Auditor and/or Collector-Treasurer shall be held personally liable in his individual capacity for any such City expenditure; and the Corporation Counsel shall bring civil action against the person of such Auditor and/or Collector-Treasurer to recover any funds so expended for the City; in the event the Corporation Counsel fails or refuses to so proceed against such Auditor and/or Collector-Treasurer the City Council may retain special counsel to so proceed.

(Ord. 1979 c. 19)

5-5.8 Bonds Not Required by Statute or Ordinance.

Every person intrusted with the collection, custody or disbursement of public moneys who is not required by statute or other ordinance to give bond shall, if the officer appointing him so requires, give before entering upon the duties of his office or position and annually thereafter and at such other times as such officer shall determine, a bond running to the City or, if such officer is bonded to the City upon the condition set forth in subsection 5-5.6, to such officer, in such penal sum not exceeding twenty thousand (\$20,000.00) dollars, with such surety, and

upon such condition as such officer shall prescribe. Every bond given under this section running to the City shall be filed with the City Auditor.

(Ord. 1954 c. 2 § 6; Rev. Ord. 1961 c. 3 § 3; CBC 1975 T5 § 103)

Cross-reference:

Ord. ss 6-1.2

5-5.9 Allowance of Premium as Expense.

The premium for the surety upon any bond given under subsection 5-5.6 or subsection 5-5.8 of this chapter or subsection 6-3.4 shall be allowed and paid as an expense of the Department of which the principal on the bond is an officer or employee.

(Ord. 1954 c. 2 § 6; Rev. Ord. 1961 c. 3 § 4; CBC 1975 T5 § 104)

Cross-reference:

CBC 1975, ss 6-3.4

5-5.10 Salary Categories for Certain Offices.

a. Holders of the following offices shall receive such annual salary as shall be fixed by the Mayor within the limits set out below for the category in which said office is placed. In fixing such salary, the Mayor shall consider the salaries paid equivalent offices by comparable governmental units elsewhere in the United States, the salary necessary to attract or retain competent individuals in the City's service and the recommendation of the Boston Compensation Advisory Board. Such salary shall, except as otherwise provided by statute or ordinance, be in full for all services rendered to the City and County, shall be apportionable in the event of service for only part of the year, and shall be subject to deduction for any and all sums due to the City or County from such office holder:

Category IA shall include: the Director of Administrative Services, the Police Commissioner, and the Fire Commissioner, who shall receive as salary not less than one hundred twenty-five thousand (\$125,000.00) dollars and not more than one hundred seventy-five thousand (\$175,000.00) dollars.

Category IB shall include: the Corporation Counsel, and the Collector-Treasurer, who shall receive as salary not less than one hundred fifteen thousand (\$115,000.00) dollars and not more than one hundred sixty-five thousand (\$165,000.00) dollars.

Category II shall include: the Commissioner of Assessing, the Commissioner of Public Works, the Commissioner of Inspectional Services, the Commissioner of Parks and Recreation, the Commissioner of Transportation, the City Auditor, the Commissioner of Property Management, and the Director of Management Information Systems, who shall receive as salary not less than one hundred ten thousand (\$110,000.00) dollars nor more than one hundred fifty-five thousand (\$155,000.00) dollars.

Category III shall include: the Supervisor of Budget, the Supervisor of Personnel, the Supervisor of Labor Relations, the Purchasing Agent, the City Clerk and the Deputy Director for Fiscal Affairs, who shall receive as salary not less than ninety-five thousand (\$95,000.00) dollars nor more than one hundred thirty-five thousand (\$135,000.00) dollars.

Category IVA shall include: the Commissioner of Elderly Affairs, the Commissioner of Veterans' Services, the Chairman of the Election Commission, the Assistant Commissioner of Property Management, the Associate Commissioner of Assessing, the Deputy Commissioner of Parks and Recreation, and the Chairman and members of the Board of Review, Chairman of the Licensing Board, members of the Licensing Board, and Secretary of the Licensing Board, who shall receive as salary not less than eighty-five thousand (\$85,000.00) dollars nor more than one hundred ten thousand (\$110,000.00) dollars.

Persons holding the offices mentioned above shall devote their entire time during ordinary business hours to their respective duties. No person holding such an office or serving in such an office on an acting or temporary basis shall receive compensation in the form of overtime. The Mayor may appoint persons to positions not enumerated in categories herein, provided, however that the Department or Agency into which the person is appointed lawfully

exists at the effective date of this section or is duly established by statute hereafter by the Legislature or by ordinance in accordance with law and provided further that the assignment of the position to one (1) of the categories enumerated herein will be made by ordinance, and no position shall be transferred from category to category except by ordinance.

Category V shall set per diem rates as follows: the Chairman and each member of the Board of Appeal in the Inspectional Services Department shall receive for every day or part thereof of actual service four hundred (\$400.00) dollars; but in no event shall the Chairman or any member of said board receive in any one (1) calendar year more than thirty thousand (\$30,000.00) dollars in the aggregate for services rendered under the Building Code and the Zoning Law. The Chairman and members of the Board of Examiners in the Inspectional Services Department shall receive for every day or part thereof of actual service two hundred fifty (\$250.00) dollars, but in no event more than twenty thousand (\$20,000.00) dollars in any one (1) calendar year.

The Chairman and each member of the Zoning Commission shall receive for every day or part thereof of actual service, two hundred fifty (\$250.00) dollars, but in no event shall the Chairman or any member of said Board receive in any one (1) calendar year more than seven thousand five hundred (\$7,500.00) dollars.

The Deputy Assessors shall be compensated as if they held an office allocated to Grade No. R-19 of the compensation plan from time to time in effect for the County; Assistant Assessors lawfully required to devote at least thirty-five (35) hours a week to their work shall be compensated as if they held an office allocated to Grade No. R-15 of said compensation plan.

b. Reserved.

c. The paragraphs of this subsection shall be severable, and if any one (1) or more paragraphs or portions thereof, shall be held invalid by any Court of competent jurisdiction, the decision of such Court

shall not affect or impair any of the remaining sections or portions hereof.

(Rev. Ord. 1961 (Sup. 1971) c. 3 § 5; Ord. 1972 c. 13; Ord. 1973 c. 5; Ord. 1974 c. 5; CBC 1975 Ord. T5 § 105; Ord. 1979 cs. 12, 20, 25; Ord. 1980 c. 11; Ord. 1982 cs. 13, 24, 25, 31; Ord. 1983 cs. 15, 16, 27; Ord. 1984 cs. 23, 24; Ord. 1986 c. 23 §§ 1-3; [105]; Ord. 1987 c. 2 § 4; Ord. 1993 c. 5 §§ 1, 2; Ord. 1994 c. 17 § 1; Ord. 1995 c. 3 § 3; Ord. 1998 c. 2 § I; Ord. 2002 c. 6 § 3; Ord. 2004 c. 2 § 2; Ord. 2006 c. 3 § 3; Ord. 2006 c. 6 § 2; Ord. 2006 c. 7 § 1)

5-5.10A Boston Compensation Advisory Board.

There shall be in the City of Boston a Boston Compensation Advisory Board consisting of five (5) members appointed by the Mayor. The Mayor shall annually designate one (1) member as chairman. Said Board shall study the adequacy of salaries and expenses of the Mayor, members of the City Council, members of the School Committee, members of Boards, Commissions, and Authorities in the City of Boston, City Officers whose compensation is set or subject to approval by the Mayor and City Council and other senior municipal officials not covered by collective bargaining agreements. At least two (2) members of the Board shall have demonstrated experience in the field of personnel management.

Members shall be appointed to the Board on a staggered basis. When the Board is first established, the member designated by the Mayor as initial Board Chairman shall be appointed for a term of five (5) years. The remaining members shall be appointed to initial terms of four (4) years, three (3) years, two (2) years, and one (1) year, respectively. Thereafter, each member shall be appointed for a term of five (5) years. Each member shall serve until June 30 of the year in which his or her term expires and until the member's successor is appointed and approved. Vacancies in the Board shall be filled by the Mayor for the unexpired term. The Supervisor of Personnel shall serve, ex officio, as a non-voting member of the Board and shall provide secretarial support and clerical assistance, including but not limited to, printing and duplicating services.

The Board shall meet at least once a year and shall, in each even-numbered year, report its recommendation to the Mayor, City Council and School Committee by the first Wednesday in March

by filing the same with the City Clerk. Nothing in this section shall prohibit the Board from filing recommendations on any subject within its jurisdiction at any time between the required biennial reporting periods. Notwithstanding any other requirement of this subsection, the Board shall, not later than thirty (30) days after the time when it is first established, study the adequacy of all salaries of City Officers whose compensation is set by ordinance and whose salary is subject to approval of the Mayor and City Council, and, report its conclusions and recommendations to the Mayor, City Council and School Committee within said thirty (30) days. Members of the Board shall be deemed special Municipal Employees. The members of said Board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. (Ord. 1986 c. 15 § 1)

5-5.11 Provisions Regarding Holdovers.

The term "holdover" as used herein shall mean a person appointed by the Mayor pursuant to statute or ordinance, as head of a Department, Board, Agency, Commission, Authority, or Office, or as a member of any such Department, Board, Agency, Commission, Authority, or Office, for a term, the duration of which is fixed, including those who are subject to the provisions of Sections 9 through 14 of Chapter 486 of the Acts of 1909, as amended, and those subject to the provisions of Chapter 473 of the Acts of 1953, as these statutes have been amended and are now in force, who, having served the term, or initial term, provided by such statute or ordinance, is continuing to serve in the office or position to which appointed, during the pleasure of the Mayor, or is continuing to serve in the office or position to which appointed pending reappointment, or pending appointment and qualification of a successor.

Any person who is a holdover for sixty (60) days or more in compensated position, including those who are compensated on a per diem basis, shall be compensated while a holdover at the rate of one (\$1.00) dollar per year, apportioned for length of service and such compensation shall be in full for all services rendered to the City and County, notwithstanding the existence of any ordinance (including without limiting the generality of the foregoing, subsection 5-5.10 and subsection 5-5.13). This section shall not apply to an office or position

occupied by a holdover in an office or position which is subject to confirmation by the City Council if the Mayor has transmitted the appointment to the City Council and the Council has failed to act thereon. (Ord. 1978 c. 2)

5-5.12 County Officers.

The officers of the County of Suffolk shall be paid the salaries and allowances provided by law. (Rev. Ord. 1961 c. 3 § 6; CBC 1975 Ord. T5 § 106)

5-5.13 Temporary Officers.

Every officer temporarily holding, or performing the duties of, more than one office shall receive the salary for the highest paid of such offices, provided, however, that any officer permanently holding an office compensated for overtime, who is appointed temporarily to an office established in subsection 5-5.10 shall not during that appointment be eligible to receive overtime in either office. (Rev. Ord. 1961 c. 3 § 7; CBC 1975 Ord. T5 § 107; Ord. 1980 c. 11)

5-5.14 Vacation and Other Absence.

Every officer in charge of a Department receiving a salary from the City shall be entitled to a vacation of two (2) weeks, without loss of pay, during each year of service, and the Mayor may grant additional leave of absence, with or without loss of pay, to such officer. (R.O. 1885 c. 4 § 4; Rev. Ord. 1961 c. 3 § 8; CBC 1975 Ord. T5 § 108)

5-5.15 Boards to Organize First Monday of May.

Every Board shall, unless otherwise provided, organize on the first Monday in May annually by the choice of one of its members as Chairman, and by the choice of a secretary, who shall be sworn to the faithful discharge of his duties. (Rev. Ord. 1961 c. 3 § 9; CBC 1975 Ord. T5 § 109)

5-5.16 Office Hours.

Except as otherwise ordered by the Mayor under subsection 2-7.10, the Collector-Treasurer shall daily have an office open for the receipt and disbursement of money from 9:00 a.m. until 2:00

p.m. and every other officer in charge of a Department shall daily have an office open for the transaction of public business for not less than eight (8) hours; provided, however, that every public office in the City shall remain closed on all Sundays and legal holidays and may remain closed on all Saturdays, except that the Board of Health and Hospitals shall have an office open for the issuance of burial permits and permits for the removal of dead bodies from 10:00 a.m. until 12:00 noon on every day in the year.

(Ord. 1954 c. 2 § 9; Ord. 1968 c. 14 § 3; Rev. Ord. 1961 (Sup. 1971) c. 3 § 10; CBC 1975 Ord. T5 § 10)

Cross-references:

Ord. ss 2-7.10; Ord. ss 6-3.5

5-5.17 Records of Acts and Doings of Departments.

Every officer in charge of a Department shall keep records of the acts and doings of the Department, in books kept specially for the purpose, including a book in which he shall record all contracts, and all changes and alterations made in contracts or specifications, for work and materials furnished for his Department, and shall keep files of its papers, and a book showing the property belonging to or used by the Department, such book to be corrected at the beginning of each financial year. The records of the proceedings of every board shall be made by the secretary upon the day of the meeting, shall state the names of the members present, and shall be read and submitted for approval at the next meeting.

(Rev. Ord. 1961 c. 3 § 11; CBC 1975 Ord. T5 § 111)

5-5.18 Employment, Compensation, and Tenure of Subordinates.

Every officer in charge of a Department shall to the best of his ability cause all statutes, ordinances, regulations, and orders relating to the duties of his Department to be observed and enforced, and subject to the Civil Service laws and rules, when applicable, shall employ, fix the compensation of, and may discharge for such cause as he shall deem sufficient and cause to be recorded in the records of his Department, all subordinates in this Department; [provided, however, that none but citizens shall be employed in any capacity except that alien physicians and nurses may be employed in a hospital or other health care institution under the charge of the Board of Health and Hospitals;] and provided, further, that no emergency, provisional, temporary, intermittent,

permanent or other appointment, transfer or promotion nor any reinstatement except upon the expiration of a suspension or a valid leave of absence, nor any increase in the compensation, nor any change in the title or rating, of any subordinate shall take effect until approved in writing by the Director of Administrative Services except in cases where the Mayor by a writing orders otherwise. The Director of Administrative Services shall file each day with the Mayor a copy of all approvals given by him on the preceding day under this section.

(Ord. 1953 c. 8 § 5; Ord. 1969 c. 5; Ord. 1972 c. 20 § 2; Rev. Ord. 1961 (Sup. 1971) c. 3 § 12; CBC 1975 Ord. T5 § 112)

Editor's Note:

The bracketed portion is unconstitutional

Sugarman v. Dougall, 413 U.S. 634; 93 S.Ct. 2842 (1973).

5-5.19 Reimbursement of Legal Expenses to City Employees Incurred Within the Scope of Employment.

a. No City employee shall be represented by the Corporation Counsel nor shall any City agency make any payment for legal services to such City employee, except in matters arising within the scope of the employee's duties as a City employee.

b. No City agency shall make any payment for legal services rendered to a City employee by private counsel in connection with any criminal or administrative proceeding or investigation arising from an alleged violation of the law by such employee; provided that if such employee is fully exonerated or such proceedings or investigation is terminated without findings or action against such employee, and the matter arose within the scope of the employee's duties as a City employee, the cost of such legal services may be reimbursed by the City upon approval of the Corporation Counsel.

c. This section shall not apply to employees of law enforcement Departments within the City of Boston and/or Suffolk County.

d. Any employee who seeks payment from the City for legal expenses incurred in a criminal matter shall post a bond equal to the amount of the payments or shall offer collateral sufficient to secure the amount of the payments made by the City. This is to ensure that the City can recover the amount it has paid for

legal services should the employee not be fully exonerated.

(Ord. 1982 c. 34 §§ 1-4)

5-5.20 The City's Policy with Respect to Paternity/Maternity Leave.

a. Any employee of the City of Boston who has completed three (3) consecutive months of municipal service shall be entitled to a maternity/paternity leave of eight (8) weeks, or a shorter period of time at the employee's discretion. The employee shall, where possible, give at least two (2) weeks' notice to her/his Department head, requesting maternity/paternity leave.

Maternity leave and paternity leave shall be taken without compensation but the employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which she or he was eligible at the time of such leave, and any other advantages or rights of employment incident to her or his employment position shall be preserved.

b. The employee may, upon two (2) weeks' or more notice, request through her/his Department head, an extended unpaid leave of absence beyond the entitled eight (8) weeks, for a period not exceeding one (1) year following the birth of the child. The Department head and Supervisor of Personnel shall determine the length of the leave of absence to be accorded the employee.

During the employee's extended period of unpaid leave, the employee shall not be eligible for fringe benefits accruing from municipal service, including subsidized premiums on group health, insurance coverage or service time credit in her/his position for retirement purposes.

c. Any male employee seeking paternity leave shall, where possible, give at least two (2) weeks' notice in writing to his Department head requesting leave. Such notice shall contain a statement as to the need of and length of time requested for paternity leave and shall be accompanied by a letter from a physician, clergyman, social worker or other authority knowledgeable of the family situation, stating that the father's presence in the period following the birth of his child is essential for the well-being of the mother, other children in the household or tranquility of the family.

The Department head and Supervisor of Personnel shall determine the length of extended unpaid paternity leave to be granted beyond the entitled eight (8) weeks; the total length of extended paternity leave should not exceed one (1) year.

d. If any of the provisions hereof conflict with a collective bargaining agreement offering greater benefits to an employee, the terms of that agreement shall govern.

(Ord. 1984 c. 36)

5-5.21 To Expend Gifts as Directed.

Every officer in charge of a Department shall expend any contribution, payment, gift, devise or bequest in accordance with the directions attached thereto.

(Rev. Ord. 1961 c. 3 § 13; CBC 1975 Ord. T5 § 113)

5-5.22 Personal Property Not Required by Department.

If the officer in charge of any Department shall at any time have the care, custody and management of any personal property belonging to the City which is not required for the purposes of such Department, he shall by a writing executed in triplicate, one copy of which shall be retained by him, one copy filed with the City Auditor and one copy delivered to the Purchasing Agent transfer the care, custody and management of such personal property to the Purchasing Agent, who, if such personal property is required for the purposes of another department, shall by a writing executed in like manner transfer the care, custody and management thereof to the officer in charge of such department and, if such personal property is not so required and he estimates the value thereof not to exceed five hundred (\$500.00) dollars, may, with the written approval of the Mayor lease, sell or otherwise dispose of same at such time, for such price and in such manner as he shall adjudge most advantageous to the City.

(Ord. 1953 c. 8 § 6; Rev. Ord. 1961 c. 3 § 14; CBC 1975 Ord. T5 § 114)

5-5.23 Inspection and Certificate by Weigher.

Every officer, except the Commissioner of Public Works, when contracting for, or accepting

delivery of, fuel, or stone, gravel, sand, or ballast from a vessel, shall require that it be weighed and inspected by a duly authorized weigher or measurer, and that the bill therefor shall be accompanied by the certificate of such weigher or measurer.

(Ord. 1954 c. 2 § 10; Rev. Ord. 1961 c. 3 § 15; CBC 1975 Ord. T5 § 115)

5-5.24 Printing and Office Supplies.

The Board in charge of the Library Department may, and the officer in charge of every other Department shall, when material or supplies of any kind, including printing and binding, are required, obtain the same from the Purchasing Agent by requisition in writing on forms furnished by said agent, who shall cause to be included in the annual report of the Administrative Services Board a statement of the cost of all printing, binding and other material and supplies furnished each Department.

(Ord. 1953 c. 8 § 7; Rev. Ord. 1961 c. 3 § 16; CBC 1975 Ord. T5 § 116)

5-5.25 Settlement of Claims.

Every officer in charge of a Department shall immediately make a report in writing to the Law Department whenever any transaction, act or negligence of the Department in his charge occurs which results in, or may occasion the bringing of, a claim against the City. All claims against the City or any Department thereof shall be transmitted to the City Clerk for reference to the Corporation Counsel, who, by himself or his assistants, shall make an investigation of the claim, and for this purpose shall be furnished, on request, with all necessary departmental books, papers or records, and may require any official or employee of a department who may have information concerning such claims to attend any hearing thereon. The Corporation Counsel shall have authority to settle any such claim, subject to the approval of the Mayor. However, no such settlement shall be made for an amount exceeding five hundred (\$500.00) dollars.

Nothing herein contained shall affect the provisions of these ordinances respecting the

settlement of claims upon which suits have been entered.

(Ord. 1866 c. 2; Ord. 1914 c. 5; Rev. Ord. 1961 c. 3 § 17; CBC 1975 Ord. T5 § 117; Ord. 1980 c. 1)

Cross-references:

Ord. ss 5-8.1; Ord. ss 6-1.6

5-5.26 Fees, Etc., Received for Services.

Every officer or employee receiving a salary from the City, who receives for his services as such officer or employee any other salary, or any fees, charges, or commission, shall pay such other salary, fees, charges, and commissions into the City Treasury, as the property of the City, provided, however, that this provision shall not apply to the fees received by the City Clerk under Chapter 131 of the General Laws or Acts in amendment or addition thereto; and any officer or employee through whom, or for whose supplies, sales, or services as such officer or employee, or for any notes, securities, leases, or other agreements in his custody, payments are due or to be made to the City, or to him for the City, shall keep suitable books and accounts of all such dues and payments, and shall, unless otherwise specially provided by law, on or before the fifth day of every month send to the Auditor a statement of the total amount of such payments made to him, or which have become due since the date of the last statements or which will become due within a month from said day, and deliver to the Collector-Treasurer all such money paid to him, and bills of such dues and, unless authorized to the contrary by the Collector-Treasurer, shall furnish therewith, in suitable books with proper details, alphabetical lists by wards of such moneys and bills, with the columns and figures added and carried forward continuously to the end of the lists.

(R.O. 1885 c. 15 § 7; Ord. 1954 c. 2 § 11; Rev. Ord. 1961 c. 3 § 18; CBC 1975 T5 § 118)

Cross-references:

Ord. ss 2-8.1; Ord. ss 6-3.1; G.L. c. 131

5-5.27 Bills and Demands Sent to Auditor.

Every person selling any goods to, doing any work for, or rendering any services to, the City of Boston or the County of Suffolk, shall submit his bill or demand for the same to the City Auditor in such form as said Auditor may require. The Board or Officer contracting for such work, goods or services

shall certify to the City Auditor, at such time and in such form as said Auditor may require, that such work has been done, goods delivered, or services rendered, as the case may be, and that payment therefor, in a specified amount, should be made. This section shall not apply to the payment of the salary or wages of any officer or employee.

Effective July 1, 1980, every bill rendered by vendors or contractors to the City of Boston or County of Suffolk for payment for goods, services, provisions or other articles supplied in quantity shall clearly itemize the number and unit cost on the statement submitted for payment and shall separately itemize additional charges, gratuities, taxes, etc., which are properly to be included in the total sum requested. If such sum is to be reduced by discount or other allowances, these shall clearly be listed and applied as adjustment.

This ordinance shall apply to all services, goods and provisions, including those supplied by food catering services, and obtained through purchase orders, service orders or payments against contractual reserves in any budget of City agencies and agencies funded wholly or in part by Federal funds or State funds.

(Ord. 1949 c. 9 § 1; Rev. Ord. 1961 c. 3 § 19; CBC 1975 Ord. T5 § 119; Ord. 1980 c. 10)

Cross-reference:

Ord. ss 6-1.3; ss 6-1.4

5-5.28 Certification by City Auditor.

No officer in charge of a Department shall incur any obligation payable from the treasury of the City unless the City Auditor shall have certified on the document intended to evidence such obligation that an appropriation in the amount of such obligation is available therefor, and no contract, purchase order, or service order shall be deemed to have been made until the City Auditor shall have so certified.

(Rev. Ord. 1961 c. 3; Ord. 1972 c. 11 § 1; CBC 1975 Ord. T5 § 120)

Cross-reference:

Ord. ss 6-1.1; ss 6-3.5

5-5.29 Pay Rolls.

The pay rolls of all Departments, Divisions, Offices and Bureaus of the City of Boston and County

of Suffolk shall be prepared on forms furnished by the Auditing Department and shall be certified, approved, audited and paid in conformity with the system and procedure established from time to time by the City Auditor.

(Ord. 1945 c 12; Rev. Ord. 1961 c. 3 § 20; CBC 1975 Ord. T5 § 121)

Cross-reference:

Ord. ss 6-1.3

5-5.30 Conditions in License of Permits.

Every officer in charge of a Department issuing a license or permit shall insert therein a condition that the person accepting the same shall conform to the statutes and ordinances and the specifications in the license or permit; that the license or permit may be revoked at any time by the authority issuing it; that the violation of any of its specifications shall work an immediate revocation of the license or permit; and that such person shall indemnify and save harmless the City from any damage it may sustain, or be required to pay, by reason of the doing of the work licensed or permitted, or by reason of any act or neglect of himself or of any of his employees relating to such work, or by reason of any violation of any specifications; provided that nothing herein contained shall be construed to prevent the insertion of any other specifications deemed advisable by the authority issuing such license or permit.

(R.O. 1890 c. 3 § 21; Rev. Ord. 1961 c. 3 § 21; CBC 1975 Ord. T5 § 122)

Cross-reference:

Ord. ss 11-6.11; Ord. Chapters XIV, XVI, XVII, XVIII of the City of Boston Code Ordinances.

5-5.31 Subordinate Acting Temporarily for Officer.

Any officer may, with the approval of the Mayor, by a writing deposited with the City Auditor, or in the case of the City Auditor with the Collector-Treasurer, designate a subordinate, who shall, for such time, not exceeding one (1) year from the date of such designation, as shall be specified in the writing, be authorized to perform the duties required of such officer, and for the acts of such subordinate such officer shall be responsible. Such designation may be in the form of a signature card

or such other form as the City Auditor shall from time to time determine.

(Ord. 1953 c. 8 § 8; Ord. 1954 c. 2 § 11; Rev. Ord. 1961 c. 3 § 22; CBC 1975 Ord. T5 § 123; Ord. 1995 c. 4 §§ 1, 2)

Cross-reference:

Ord. ss 6-1.1; ss 6-3.4

5-5.32 Mandatory Referral of Capital Improvements.

Every Board and Officer of the City and of the County of Suffolk having power to incur, in carrying on the work of the Department, Office or undertaking entrusted to it or him, obligations payable from the Treasury of the City, shall submit to the Boston Redevelopment Authority on or before October first in each year a list of all capital improvements proposed to be made in carrying on the work of such Department, Office or undertaking in the six (6) succeeding years; and no such Board or Officer shall request the Mayor to originate any appropriation or loan order for any capital improvements unless within the preceding six (6) months such Board or Officer has referred such capital improvement to the Boston Development Authority and requested said authority to report specifically upon such capital improvement and accompanies the request to the Mayor with the report of said Authority thereon or certifies that said Authority was duly requested to report specifically on such capital improvement but has allowed two (2) months to elapse without making such report. As used in this section, the term "capital improvement" shall be construed to mean an acquisition, improvement, construction or installation for which the City is authorized to incur debt for a period of ten (10) years or more.

(St. 1960 c. 652 § 12; Ord. 1952 c. 4; Rev. Ord. 1961 c. 3 § 23; CBC 1975 Ord. T5 § 124)

5-5.33 Estimates of Appropriations and Income.

Every officer in charge of a Department shall annually, on or before the first day of November, send to the Mayor an estimate in detail of the appropriations required for such Department for the next financial year, and an estimate of the income of such Department during said year.

Department and Agency heads and employees of the Budget Division of the Administrative Services Department, when testifying before the City Council or a Committee thereof concerning an appropriate order pending before the Council in accordance with CBC St. T. 6, S 251, or a loan order or an order approving the expenditure of funds received from the State or Federal governments, shall do so under oath and subject to the penalties of perjury in accordance with the procedure set forth in Massachusetts General Laws, Chapter 233, Section 8, and such testimony shall be recorded by a stenographer, excepting when the Council or a Committee to which the examination of any Department or Agency budget is assigned by express vote authorizes the dispensation of said requirement for sworn testimony and stenographic record.

(Rev. Ord. 1961 c. 3 § 25; CBC 1975 Ord. T5 § 125; Ord. 1980 c. 15)

Cross-reference:

Ord. ss 6-1.8

5-5.34 Annual Reports of Departments.

Every officer in charge of a Department shall within thirty (30) days after the close of the financial year transmit to the Mayor a report containing a statement of the acts and doings, and receipts and expenditures, of the Department for such financial year, together with such other matters as may be required by law, or as the Mayor or officer may deem to be of public interest. Every Board within a Department not subject to the supervision or control of the officer in charge of the Department shall make an annual report containing a statement of its acts and doings and such other matters as may be required by law or as it or the Mayor may deem to be of public interest, which report shall be annexed by the officer in charge of the Department as an appendix to his annual report.

(Ord. 1954 c. 2 § 12; Rev. Ord. 1961 c. 3 § 25; CBC 1975 Ord. T5 § 126)

Cross-reference:

Ord. ss 6-1.8; Ord. ss 11-1.1; Ord. ss 12-3.2; Printing of Reports, 5-1.10

5-5.35 Notice of Illness of Inmates of Public Institutions.

Every Officer or Board in charge of a public institution shall, in case of serious illness of any

inmate of such institution, notify or cause to be notified, promptly, the nearest relatives or friends of such inmate.

(Ord. 1900 c. 3; Rev. Ord. 1961 c. 3 § 27; CBC 1975 Ord. T5 § 127)

Cross-reference:

Ord. ss 12-8.3

5-5.36 Equal Opportunity Policy.

No Officer of the City shall deny to any person access to opportunity, including without limitation employment, educational, and recreational opportunity, solely by reason of sex or gender identity or expression. It shall be the policy of the City to afford to every person equal access to opportunity, including without limitation employment, educational and recreational opportunity.

(Ord. 1974 c. 4; CBC 1975 Ord. T5 § 128; Ord. 2002 c. 9)

5-5.37 Public Access to Computerized Information.

Notwithstanding any ordinance to the contrary, all information gathered for or stored in computerized, data processing, "mini computers," punch card data banks, or any other retrieval systems operated, leased or owned by any City agency shall be considered as public records under the law. This ordinance shall apply to operations in Little City Halls and every City Agency financed in part or whole with Federal funds.

This ordinance shall apply to information in the aforesaid systems relating to City agencies, whether stored centrally, in a network informational system, or a data bank located any distance outside Boston. Upon the written request of any citizen, City agency, or news media representative, information shall be produced within a reasonable time for inspection and a record copy issued at cost. Nothing herein shall be construed to create a right in other than the City agency owning or operating said data bank to request information through other than an existing City-owned or leased computer program or to reprogram said computer system.

This ordinance shall not apply to any data or information exempt from disclosure by State or Federal law or rule of court and is subject to the provisions of G.L. Chapter 66A or any similar Federal Law.
(Ord. 1979 c. 9)

5-5.38 Public Information Officer; Prohibition of.

On or after July 1, 1980, no person shall be paid from City of Boston funds, no matter the source, for public relations or public information purposes, unless the person receiving such payment is employed by the City in accordance with Chapter 31 of the General Laws as a public information officer, or as an employee under the supervision of such an officer; nor shall any person be employed as a public information officer unless a specific appropriation has first been made for such position by order of the City Council. Public information officers so employed shall receive an annual salary of not less than fifteen thousand (\$15,000.00) dollars nor more than twenty thousand (\$20,000.00) dollars.
(Ord. 1980 c. 4)

5-5.39 Comparable Worth Commission.

a. There shall be hereby established in the City of Boston "The Comparable Worth Commission," herein after referred to as the "CWC."

b. *Definitions.* The following terms shall have the meaning as prescribed herein, unless the context of this subsection demands otherwise.

Comparable Worth Commission or CWC shall mean the Commission of the City of Boston created by this subsection.

Comparable Worth shall mean the equalization of the salary levels of employment for males, females, and minorities in similar or comparable job positions in the employ of the City of Boston, its Departments, Agencies, Boards, Commissions and/or Offices.

Personnel Department of the City of Boston shall mean that Department within the structure of the City that deals with matters of employment, its successors or assigns.

Reclassification and Pay Equity Study shall mean the study conducted by a private consultant hired by the office of Personnel Management to examine and reclassify the City's job positions.

c. The CWC shall consist of fifteen (15) members, appointed by the Mayor, to serve staggered

terms of one (1) and two (2) years. The members of the CWC shall be as follows:

1. Six (6) persons who are representatives of municipal labor unions and women's advocacy organizations. Due consideration shall be given to appoint individuals who have a record of involvement with issues related to comparable worth.

2. Two (2) persons who are employed in the private sector.

3. The Supervisor of the City of Boston Office of Labor Relations, to serve ex officio.

4. The Mayor's Advisor on Women's Issues, to serve ex officio.

5. The Director of the City of Boston Office of Personnel Management, to serve ex officio.

6. The Director of the City of Boston Affirmative Action office, to serve ex officio.

7. The Director of the City of Boston Office of Budget and Program Evaluation, to serve ex officio.

8. The Equal Rights Advisory to the Mayor, to serve ex officio.

9. A member of the City Council designated by the President of the City Council.

Members of the CWC shall serve without compensation and shall be designated special municipal employees for the purposes of Chapter 268A of the General Laws.

- d. The CWC shall provide advice on issues related to comparable worth to the Office of Personnel Management during the conduct of the reclassification and pay equity study. During the course of the study, the Office of Personnel Management shall consult with the CWC, or a subcommittee thereof, at CWC's request upon reasonable notice, and shall provide access to information related to comparable worth issues, also at CWC's request upon reasonable notice, prior to the Office of Personnel Management's making decisions on comparable worth issues. The Supervisor

of the Office of Labor Relations, the Commissioner of the Women's Commission and, where appropriate, other Administration Officials, shall provide CWC with assistance at CWC's request upon reasonable notice. The CWC shall meet at least monthly at the call of the Chair. Notwithstanding any other provision herein to the contrary, powers with respect to the executive and administrative business of the City remain with the Mayor, and he does not hereby delegate those powers to any person or entity.

This ordinance shall take effect upon its passage.

(Ord. 1987 c. 1, §§ 1-5; Ord. 1988 c. 12, §§ 1-5)

5-5.40 Notification of Employees Regarding Municipal Ethics Laws.

Upon taking employment, a promotion, and when leaving employment, every employee of the City of Boston shall be furnished a copy of the handbook, Introduction To The Conflict Of Interest Law for City Of Boston Employees, by the Human Resources Department, outlining the pertinent municipal ethics requirements under c. 268A of the Massachusetts General Laws. A Department Head shall explain relevant sections to an employee and provide a certificate stating that an employee has received and read this handbook. Thereafter, a copy of each certificate shall be transmitted by the Department Head to the City of Boston Human Resources Department within five (5) business days, and in the case of the City Council or the City Clerk's Office, to the staff director of the Boston City Council.

(Ord. 1997 c. 7)

5-5.41 Reporting Requirements to the City of Boston Retirement Board.

- a. The City of Boston's Office of Human Resources, Workers' Compensation division, and every officer in charge of a City of Boston Public Safety Department shall provide a copy of a notice of injury to the Boston Retirement Board within six (6) months of receipt of notice of any injury alleged to have arisen out of and in the course of employment that incapacitates an employee from earning full wages for a period of five (5) or more calendar days.

- b. Every officer in charge of a City of Boston Department shall file the statements required by 840

CMR 10.07 with the Boston Retirement Board within ten (10) business days, not including legal holidays, of the date that the department head receives it.

c. Every officer in charge of a City of Boston Department shall annually, and upon appointment, attend an approved educational training seminar on disability retirement, as established and/or designated by the Boston Retirement Board.

d. The provisions of these sections shall be effective thirty (30) days after passage.
(Ord. 2008 c. 17)

5-6 PENSIONS, RETIREMENT ALLOWANCES AND ANNUITIES.

5-6.1 Pension Reserve Fund.

In order to provide reserves that may be used to offset the anticipated future costs of funding the contributory retirement systems of the City of Boston, the City Council by majority vote, upon the request of the Mayor, may appropriate in any fiscal year an amount or amounts in the aggregate in any one year not exceeding five (5%) percent of the real and personal property tax levy of the next preceding fiscal year. All amounts so appropriated shall be credited to the Pension Reserve Fund established hereby (the "fund") of the system provided for in Section 22 of

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the pension act. Notwithstanding the foregoing, the aggregate amount of deposit in such fund at any time shall not exceed ten (10%) percent of the equalized valuation of the City, as defined in Section 1 of Chapter 44 of the General Laws, as last determined in accordance with law.

(Ord. 1984 c. 1)

5-6.2 Allocation of the Fund.

Except as hereinafter provided, amounts appropriated to the fund shall be applied as provided herein, in the pension act and in the funding act, to meet expected future pension costs payable with respect to all employees of the City. The City Council with the approval of the Mayor may designate by order all or any portion of the amount appropriated to meet expected future pension costs payable with respect to employees of particular Departments, Commissions, Agencies, Boards, or distinctive parts or units thereof (hereinafter, collectively, "Departments" or "Department") of the City; provided that no amount so specifically designated for a particular Department in any year shall exceed the amount reasonably expected to be received in that year on account of fees, charges, payments-in-aid or other departmental revenues relating to the activities of or services provided by that Department, nor shall the amount so specifically designated for any year for any particular department exceed the sum of the amounts (determined in accordance with recognized actuarial methods) which are (a) normal pension costs on an accrual basis for that year for the employees of that Department, including, if so provided in the order, an allocation relating to such employees of other Departments as provide overhead, support or ancillary service to the Department, in proportion such other Department provides service to the Department who are members of the system and (b) the annual amount required to amortize in not less than twenty (20) years the unfunded past service liability attributable to such employees of that Department, or such other Departments.

(Ord. 1984 c. 1)

5-6.3 Use and Maintenance of the Fund.

As provided in the funding act, all sums appropriated to the fund shall be appropriated and used only for the purpose of offsetting the anticipated future cost of funding the contributory retirement

systems of the City. Separate subaccounts shall be maintained in the fund for each Department for which appropriations have been specially designated and the Collector-Treasurer shall maintain all monies so specially designated in the sub-account established therefor. The Collector-Treasurer shall maintain all other monies appropriated hereunder in a general account within the fund.

(Ord. 1984 c. 1)

5-6.4 Custody of the Fund.

The Collector-Treasurer may enter into one or more custodial arrangements for safekeeping and investment, in whole or in part, of the fund with one or more banks or trust companies the principal offices of which are located in the City. Amounts in the fund shall be deposited and invested, at the direction of the Collector-Treasurer, as provided in the pension act and the funding act. Interest and other investment earnings on any amounts appropriated to the fund shall be credited to the account or sub-account within the fund on which they are earned.

(Ord. 1984 c. 1)

5-6.5 Appropriation of Fund Monies.

Amounts appropriated to the fund in accordance with this ordinance, and interest and other income thereon, may be applied in any fiscal year, upon appropriation, to offset amounts certified by the Board of the system under the pension act, or any successor provision of law, as necessary to be paid for such fiscal year to the funds of the system; provided that no such appropriation from the fund or any account therein shall exceed the amount, certified by the Collector-Treasurer upon the advice of the City Auditor, of the pension liability for which the amount to be so appropriated was reserved.

(Ord. 1984 c. 1)

5-6.6 Fund Not to Vest, Etc.

This ordinance is not intended to, and shall not, create rights or entitlements of any kind in the establishment or funding of the fund, in amounts appropriated thereto or held therein in accordance with this ordinance, or in the disbursement or disposition of any such amounts, in favor of any member of the system or any other employee of the City. If the limitation on this ordinance stated in this

section shall be ineffective as a result of any existing or future provision of law or any final judicial or administrative determination, this ordinance shall be void and all amounts theretofor appropriated to and then held in the fund in accordance with this ordinance, and all interest and other income thereon, shall be transferred without further appropriation to the general fund of the City.
(Ord. 1984 c. 1)

5-6.7 Construction.

This ordinance shall be liberally construed to further the purposes of the funding act and shall be deemed and construed to be supplemental and additional to, and not in derogation of, all powers conferred on the City by law.
(Ord. 1984 c. 1)

5-6.8 Custodial Accounts, Deposits.

In accordance with this ordinance, a separate subaccount shall be established and maintained in the fund into which shall be deposited and segregated all amounts on deposit on the effective date of this ordinance. All such amounts so deposited, and interest earnings thereon, are hereby designated in accordance with this ordinance to meet expected future pension costs payable with respect to employees of the department of health and hospitals. All actions of the collector-treasurer and the commissioner of health and hospitals heretofore taken in establishing such custodianship account, and the deposit therein during the fiscal year ended June 30, 1981, on account of pension costs of said department in the prior fiscal year of cash and securities in the amount of \$9,737,000 and the deposit therein during the fiscal year ended June 30, 1982, on account of pension costs of said department in the prior fiscal year of \$2,500,000, and the accumulation in said account of the interest earnings on such amounts, is hereby ratified and confirmed, and all such amounts shall be deemed, and are, transferred and appropriated as of their respective dates of deposit for the purposes of the fund and the sub-account therein designated for the department of health and hospitals. The collector-treasurer and the commissioner of health and hospitals are hereby authorized and directed to do all things and execute all instruments as may be required to transfer the aforesaid custodianship account to the

fund and to establish it therein as a sub-account to be administered in accordance with the provisions of this ordinance.
(Ord. 1984 c. 1)

5-6.9 Severability.

Except for Section 5-6.6, inserted hereunder, the provisions of this ordinance are severable and if any provision hereof except said section shall be held invalid in any circumstances, such invalidity shall not affect any other provision or circumstance.
(Ord. 1984 c. 1)

5-7 BOSTON RETIREMENT BOARD.

5-7.1 Powers and Duties.

The Boston Retirement Department shall be under the charge of the Boston Retirement Board, who shall exercise the powers and perform the duties provided by statute.
(St. 1922 c. 521; St. 1945 c. 658; Rev. Ord. 1961 c. 8 § 1; CBC 1975 Ord. T5 § 400)

5-8 LAW DEPARTMENT.

5-8.1 Corporation Counsel.

The Law Department shall be under the charge of the Corporation Counsel, who shall furnish opinions on the law of any subject or question that may be submitted to him by the Mayor or the City Council and on any subject or question relating to the discharge of their or his official duties that may be submitted to him by the School Committee, by any Committee of the City Council, or by four (4) members of the City Council, or by any Officer in charge of a Department of the City government provided, however, that in the event the interests of the Mayor and Council appear to the Council to be divergent or in conflict, the Council may have the benefit of the services of special counsel; shall, on application, advise any officer or employee of the City on any question of law connected with the discharge of his official duties; shall, subject to the direction of the Mayor, or of any Committee of the City Council having charge of matters before the general court of

the Commonwealth, appear by himself or assistants as Counsel for the City before the general court or before any committee thereof, when the interest or welfare of the City is directly or indirectly affected; shall draft and approve the form of all written contracts; shall by himself or by the City conveyancers examine all titles to real property which the City is to acquire, and furnish without charge all deeds or other legal papers necessary for the transfer of property to or from the City which the City is required by law, or has been accustomed, to so furnish; and shall audit all bills incurred by the Department; shall, subject to the direction of the Mayor, institute any suit or proceeding in behalf of the City which he shall deem the interest of the City requires; shall by himself or by his assistants in the Law Department appear as Counsel in all suits, actions, or prosecutions which may involve the rights or interests of the City, and defend the officers of the City in suits against them for their official actions, or for the performance of their official duties, or when any estate, right, privilege, interest, ordinance, act, or direction of the City is brought in question; may take such steps, and incur such expenses, for the prosecution and defense of suits as he deems necessary; shall examine into the settlement of a claim when requested so to do by the Mayor or the head of any Department, and, if he deems such settlement advantageous to the City, shall approve the same; and may settle any suit against the City.

(Ord. June 18, 1827; Ord. April 2, 1866; Ord. March 25, 1882; Rev. Ord. 1961 c. 17 § 1; CBC 1975 Ord. T5 § 450; Ord. 1979 c. 14)

Cross-reference:

Statutes, Title 3 § § 1, 2; Statutes, Title 4 § § 1, 8; Ord. ss 5-5.25; Ord. ss 11-7.6

5-8.2 Prohibition.

No person connected with the Law Department shall, except as hereinbefore provided, appear in court in any case to which the City is not a party.

(Rev. Ord. 1961 c. 17 § 2; CBC 1975 Ord. T5 § 451)

5-9 BOSTON CULTURAL COUNCIL.

5-9.1 Creation; Members.

Subject to the provisions of chapter 10, section 58 of the M.G.L., there shall be created the Boston

Cultural Council consisting of at least fifteen (15) and not more than twenty-one (21) members who shall be appointed by the Mayor for staggered terms of three (3) years, with each member limited to two (2) consecutive terms.

(Ord. 2012 c. 2)

5-9.2 Qualifications for Members.

The Council members shall have demonstrated scholarship or creativity in, or distinguished service to, the arts, humanities, or interpretive sciences and shall be broadly representative of all fields of the performing arts, the fine arts and humanities. One member shall be appointed from each of the nine (9) districts within the City of Boston and shall be a resident of that district for at least two (2) years.

(Ord. 2012 c. 2)

5-9.3 Purpose.

The Boston Cultural Council shall distribute funds allocated by the Massachusetts Cultural Council, a state agency, to support innovative arts, humanities, and interpretive sciences programming within the City of Boston as established under the provisions of chapter 10, section 58 of the M.G.L.

(Ord. 2012 c. 2)

5-9.4 Election of Chairman; Vacancy.

Elected or appointed public officials shall not be eligible for membership on said Council. The council shall elect a Chairman, Secretary and Treasurer from among the membership. Upon a vacancy, for any reason, the member's successor, if any, shall be appointed for a term of three (3) years, and shall serve until the qualification of such member's successor.

(Ord. 2012 c. 2)

5-9.5 Powers and Duties.

The Boston Cultural Council shall hold public meetings and may enter into contracts with individuals, organizations, and institutions for services furthering the objectives of the Council's purpose.

(Ord. 2012 c. 2)

5-9.6 Reimbursement of Expenses.

The members of the Boston Cultural Council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. Provided further that the council shall not utilize more than five (5) percent of the monies received from the State Arts Lottery Fund for administrative purposes, including member expenses.
(Ord. 2012 c. 2)

5-9.7 Guidelines Established.

The Boston Cultural Council shall promulgate necessary guidelines, rules or regulations for the use of state arts funds and for its own operations and procedures.
(Ord. 2012 c. 2)

5-9.8 Application for Funds; Use of Funds.

The Boston Cultural Council shall receive applications once annually on or before December 31 of each year and shall determine if applications for funds comply with said guidelines.

The Boston Cultural Council shall certify to the City Auditor and Collector-Treasurer the payment of funds for those applicants who are eligible upon receipt of vouchers itemizing the use of the funds.
(Ord. 2012 c. 2)

5-9.9 Audit of Expenditures.

The Boston Cultural Council shall conduct an annual audit of the expenditures of those funds and file a report, and copies of the report, to the City Clerk no later than three (3) weeks after the close of the fiscal year.
(Ord. 2012 c. 2)

5-9.10 Severability.

The provisions of this section are severable, and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such

unconstitutionality or invalidity will not affect the remaining provisions, which will remain in full force and effect.

(Ord. 2012 c. 2)

5-10 RESIDENCY COMPLIANCE.**5-10.1 Residency Compliance Commission.**

There shall be a Residency Compliance Commission ("Commission") comprising seven (7) Commissioners, five (5) to be appointed by the Mayor of Boston so long as one is a City union representative and two (2) are members of the citizens group Save Our City; the City's Affirmative Action Officer shall serve ex-officio, and the City Council President, or such other Councillor designated from time to time by the Council President, shall serve ex-officio. The purpose of the Commission shall be to investigate and make findings, pursuant to the following provisions, relative to compliance with the Boston Residency Ordinance, CBC subsections 5-5.2, 5-5.3 ("Residency Ordinance").

All Commissioners, with the exception of the City Council President, shall serve coterminous with the Mayor and any vacancies shall be filled by the Mayor of Boston for the unexpired term. The Commissioners shall annually elect a Commission Chairperson. Commissioners shall serve without compensation and shall be classified as Special Municipal Employees for purposes of the State Ethics Law, G.L. c. 268A.

The Commission shall have the power to investigate, conduct hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production for examination of any documents, books, papers, or evidence relating to any matter in question or under investigation by the Commission. The Commission may appoint from within or without its membership a hearing officer to conduct particular hearings. Subpoena power shall be exercised by the Chairperson of the Commission, or his or her designee, upon majority vote of the Commission. The employee who is the subject of a hearing shall be afforded notice and an opportunity to

provide testimony, witnesses, documents and to have counsel present.

Should the Commission, after hearing, find that an employee, who is subject to the Residency Ordinance, does not reside within the City of Boston, the Commission shall issue its findings to the employee's Department head. The Commission shall also, with its findings, advise that the employee's failure to reside within the City of Boston constitutes a voluntary termination of employment under the Residency Ordinance and said Department head or appointing authority shall, consistent with the Residency Ordinance, notify the Treasurer to remove the employee's name from the payroll.

Semi-annually, the Commission shall provide a written report to the Mayor, who shall file a copy with the City Council. This report shall include all investigations and findings by the Commission with respect to the Residency Ordinance.

(Ord. 1994 c. 10 § 5)

5-10.2 Residency Compliance Unit.

There shall be a Residency Compliance Unit ("Compliance Unit") within the Administrative Services Department, Personnel Division, which shall also have the power to conduct investigations of City employees and officers where there is reason to believe that an employee or officer may be in violation of the Residency Ordinance. The Municipal Police Department shall serve as investigators for both the Compliance Unit and the Compliance Commission.

The Compliance Unit shall ensure, pursuant to the Residency Ordinance, the filing of residency affidavits and submission of additional documentation to verify residency. It shall also serve as a vehicle whereby employees and the general public may report those who are believed to be in violation of the Residency Ordinance. Where questionable claims of residency exist, the Compliance Unit shall forward such to the Compliance Commission for further investigation as delineated by subsection 5-10.1.

(Ord. 1994 c. 10 § 5)

CHAPTER VI

GENERAL SERVICES

6-1 AUDITING DEPARTMENT.

6-1.1 General Duties of City Auditor.

The Auditing Department shall be under the charge of a City Auditor who shall be appointed by the Mayor, and hold office, subject to the Civil Service laws and rules and who shall have the custody of all notes, securities, bonds given for the faithful performance of a contract, contracts and other agreements to which the City is a party and for which no other provision is made, and of all bonds to the City other than the Auditor's; shall keep a register of the dates, amounts, and sureties on all such bonds, and notify the Mayor whenever any such bond expires, or whenever he is of the opinion that it is impaired by the insolvency or other disability of a surety; shall keep a complete set of books, wherein shall be entered the amount of each specific appropriation and each amount that has been expended on account of such appropriation; shall cause the accounts of the several boards, officers, agencies and departments to be regularly examined annually by competent experts at such times as the Mayor shall approve; shall notify the Mayor whenever the expenditures of a Department seem to him to be in excess of a proper monthly ratio of its appropriation; shall, when any appropriation of a Department has been wholly expended, immediately make a report of that fact to the Department and to the Mayor; shall have the custody of all bonds and certificates of indebtedness, and the coupons thereof, issued by the City, after they have been paid and delivered to him by the Collector-Treasurer; shall direct to the Collector-Treasurer all necessary drafts, checks, or other orders for the payment of money, in such form as the Mayor shall approve, and forthwith upon completion of each such examination of accounts, file one copy of his report thereof with the City Clerk, who shall keep the same open to public inspection during regular business hours; shall keep a registry of, and sign with the Collector-Treasurer, countersigned by the Mayor, all bonds and certificates

of indebtedness of the City issued by the Collector-Treasurer; and shall, if elected, serve as Secretary of the Board of Commissioners of Sinking Funds.

(Ord. August 2, 1824; St. 1909 c. 486 §§ 23 - 25; Ord. 1965 c. 2 § 15; Rev. Ord. 1961 c. 6 § 1; Ord. 1974 c. 10; CBC 1975 Ord. T6 § 1)

Cross-references:

Ord. ss 6-3.6

6-1.2 Payment of Bonds, Executions, and Coupons.

The Auditor shall, immediately on receiving any bond of the City from the Collector-Treasurer, deliver to him a check or other order for the payment of the same; and shall on the days of receiving executions or coupons from the Collector-Treasurer deliver to him a draft for the total amount of the executions, coupons, and interest paid by the Collector-Treasurer to such days.

(Rev. Ord. 1961 c. 6 § 2; CBC 1975 Ord. T6 § 2)

Cross-reference:

Ord. ss 6-3.5; ss 6-3.8

6-1.3 Examination and Approval of Payrolls; Payment of Persons Leaving Service.

The Auditor shall, within forty-eight (48) hours after the close of the period covered by any payroll, and after examination thereof, if found correct, approve the same, and shall deliver to the Collector-Treasurer a draft to pay the amount so approved; shall at any time, on receiving a proper certificate from the Officer or Board in charge of a Department, deliver to the Collector-Treasurer a check or other order to pay the amount due any person in that Department leaving the service of the City.

(Rev. Ord. 1961 c. 6 § 3; CBC 1975 Ord. T6 § 3)

Cross-reference:

Ord. ss 5-5.27, 5-5.28, 5-5.29; Ord. ss 6-3.8, ss 6-3.12

6-1.4 Examination of Bills and Demands.

The Auditor shall examine every bill and demand rendered against the City of Boston or the County of Suffolk and shall ascertain whether the following facts exist:

- a. That such bill or demand has been incurred by some person duly authorized;
- b. That funds appropriated for the purpose are on hand in sufficient amount for the payment of such bill or demand;
- c. That the clerical computations involved in such bill or demand are correct;
- d. That the certificate prescribed by subsection 5-5.27 has been furnished.

If the Auditor finds that all of said facts exist, he shall make an appropriate notation on the bill or demand and forthwith forward the same to the Collector-Treasurer for payment, and, as soon thereafter as conveniently may be, shall draw a draft upon the Collector-Treasurer for the payment of such bill or demand. If the Auditor finds that any of such facts does not exist, he shall return the bill or demand with his objections to the person submitting the same. (Ord. 1949 c. 9 § 2; Rev. Ord. 1961 c. 6 § 4; CBC 1975 Ord. T6 § 4)

Cross-reference:

Ord. ss 5-5.27; Ord. ss 6-3.5, ss 6-3.8; Ord. ss 6-3.1; Ord. ss 11-6.37

6-1.5 Check or Order for Payment.

The Auditor shall, when requested in writing by any officer in charge of a Department, if he deems it proper so to do, audit accounts and issue drafts for the payment thereof whenever necessary. (Rev. Ord. 1961 c. 6 § 5; CBC 1975 Ord. T6 § 5)

6-1.6 Departmental Charges.

The Auditor, at the close of each month, shall charge as an expenditure of a Department the transaction, act, or neglect of which caused a claim or suit, the amount paid in settlement, or on execution, therefor, unless provision is made for such payment out of some other appropriation; shall charge the

amount of every bill allowed by him for printing or binding furnished any Department by the Purchasing Agent during such month, except City documents, to the appropriation for the Department to which the same was furnished, and shall credit such amount to the general revenue of the City; and shall charge to the appropriation for each division of the Public Works Department, or to the appropriation for any special work, the amount of all bills for materials, tools or machinery furnished for such division, or for such work, by other divisions of said Department, and shall credit such amount to the general revenue of the City, unless such materials, tools or machinery have been furnished by the water service, in which case the amount charged shall be credited to the water income. (Ord. 1953 c. 8 § 11; Rev. Ord. 1961 c. 6 § 6; CBC 1975 Ord. T6 § 6)

Cross-reference:

Ord. ss 5-5.26, ss 5-5.33; Ord. ss 11-6.29

6-1.7 Monthly Report to Mayor and City Council.

The Auditor shall, immediately after the first day of every month, make to the Mayor and, prior to its fourth regular meeting of every month, to the City Council, a report showing the amounts of the several appropriations, the amounts of all drafts on account of each appropriation made during the month preceding, the amounts of such drafts made since the beginning of the financial year, and the balance of such appropriation remaining subject to draft.

(Rev. Ord. 1961 c. 6 § 7; Ord. 1972 c. 11 § 2; CBC 1975 Ord. T6 § 7)

Cross-reference:

Ord. ss 2-7.3; Ord. ss 5-5.31

6-1.8 Annual Report.

The Auditor shall include in his annual report a statement of all the receipts and expenditures of the City for the past financial year, giving in detail the amount of each regular and special appropriation and the expenditures therefrom, the receipts from each source of income, the reduction, if any, of the City debt, and the change, if any, in the sinking funds, which statement shall be, arranged so far as practicable to conform to the accounts of the Collector-Treasurer.

(Ord. 1954 c. 2 § 19; Rev. Ord. 1961 c. 6 § 8; CBC 1975 Ord. T6 § 8)

Cross-reference:

Ord. ss 5-5.33; Ord. ss 6-3.5

6-1.9 Deputy City Auditor.

The City Auditor may appoint, subject to the approval of the Mayor, a Deputy City Auditor, who shall be sworn to the faithful discharge of his duties and shall hold office until his successor is appointed and qualified. The Deputy City Auditor shall perform such duties as may be assigned to him from time to time by the City Auditor. If, by reason of illness, absence, or other cause, the City Auditor be temporarily unable to perform the duties of his office, the Deputy City Auditor shall perform the same until such disability ceases.

(Ord. 1934 c. 5; Rev. Ord. 1961 c. 6 § 9; CBC 1975 Ord. T6 § 9)

6-1.10 Restriction on Transfer of Appropriated Money.

After an appropriation of money has been duly made by the City of Boston for any specific purpose, or for the needs and expenditures of any City Department or County Office, the City Auditor shall make transfers of the monies thus appropriated only in accordance with law, and shall make no transfer requiring approval by a ye and nay vote of two-thirds (2/3) of all of the members of the City Council under Section 1 of Chapter 604 of the Acts of 1941, as now or hereafter amended, unless the City Clerk shall certify that such approval has been given and the date thereof.

(Ord. 1972 c. 11 § 3; CBC 1975 Ord. T6 § 10)

Cross-reference:

St. 1941 c. 604 § 1

6-1.11 Expenditure of Funds in Excess of Those Appropriated.

In the event of an expenditure by any City Official of funds in excess of those appropriated by the City Council, such expenditure being in violation of CBC, St. 4, Sec. 4, the City Council may, with the assistance of the Corporation Counsel or special counsel, on behalf of the City, seek a complaint or otherwise proceed against such Official for such violation in a court of appropriate jurisdiction.

(Ord. 1980 c. 3)

6-1.12 Establishing Standard Provisions for Annual Appropriation Orders.

Unless otherwise provided by law or such order, every annual appropriation order of the City Council shall be deemed to contain the following standard provisions:

a. No more than one-quarter (1/4) of the funds appropriated for any fiscal year for permanent personnel shall be expended for such purpose in any ninety (90) day period except with the express approval of the Mayor and City Council.

b. No official or employee of the City shall receive overtime pay in excess of ten (10%) percent of his annual salary in any twelve (12) month period unless such excess payment is expressly approved by the Mayor and City Council.

c. All salaries for non-civil service positions in excess of fifteen thousand (\$15,000.00) dollars annually and all changes in such salaries shall be subject to approval of the City Council.

d. Unless expressly approved by the Mayor and City Council, no department or agency of the City shall employ in any position within such department or agency any number of persons in excess of the number approved by the City Council.

e. Unless expressly approved by the Mayor and City Council, no department or agency of the City shall expend funds in excess of two thousand (\$2,000.00) dollars for contractual services for any purpose unless such funds and purposes were included on Form 6 of a program budget submitted to the Council in connection with an annual appropriation order prior to the expenditure of such funds.

f. Unless expressly authorized by the Mayor and City Council, no person paid from funds appropriated by this order shall be paid by any agency other than the agency for which such person actually works.

g. Passage of this order does not, either directly or implicitly, authorize, or purport to authorize, any department or agency head or any other appointing authority to disregard the provisions of

Chapter 31 of the Massachusetts General Laws or the provisions of any other special or general law.

h. Funds appropriated by this order shall not be used to advertise the name of any City official whether elected or appointed.

i. Unless otherwise provided by law, or written contract predating such expense, after a payroll expense has been incurred by payment from any City payroll account such expense shall not be charged to any other account without approval of the Mayor and City Council.

j. The City Auditor shall not knowingly approve any expenditure of funds in violation of this order and the Auditor is lawfully convicted of such violation the Auditor shall be subject to a fine not to exceed one thousand (\$1,000.00) dollars for each such offense.
(Ord. 1980 c. 8 § 1)

6-2 ASSESSING DEPARTMENT.

6-2.1 Board, Appointment, Term, Divisions of Department.

There shall be in the City a Department, known as the Assessing Department, which shall be under the charge of a Board consisting of an officer, known as the Commissioner of Assessing, appointed by the Mayor for a term expiring on the first Monday of January following the next biennial municipal election at which a Mayor is elected, and of two (2) other officers, known as Associate Commissioners of Assessing, each appointed by the Mayor for a like term. The Mayor shall from time to time by a writing filed with the City Clerk designate one of the Associate Commissioners of Assessing as the Associate Commissioner of Assessing for Motor Vehicle Excises and the other as the Associate Commissioner of Assessing for Poll Taxes.

Said Board shall divide the Assessing Department from time to time into a Real Estate Appraisal Division, a Statistical Research Division,

and such other Divisions as said Board shall adjudge necessary for the proper conduct of the Department. (Ord. 1958 c. 4 § 3; Ord. 1961 c. 1 § 4; Rev. Ord. 1961 (Sup. 1971) c. 5 § 1; CBC 1975 Ord. To § 100)

Cross-reference:

Ord. ss 17-14.1

Editor's Note:

By St. 1963 C. 160 the poll tax was abolished.

6-2.2 Powers and Duties of Commissioner of Assessing.

The Commissioner of Assessing shall, for the Assessing Department including the Board of Review, exclusively have the power, and perform the duties, conferred or imposed by law on the Assessor in existence immediately prior to the taking effect of this ordinance with respect to the acquisition and disposal of property, the making of contracts, and the appointment, suspension, discharge, compensation and indemnification of subordinates. The Commissioner of Assessing shall also have the powers and perform the duties conferred or imposed by law on the Assessor and the Board of Review in the Assessing Department in existence immediately prior to the taking effect of this ordinance with respect to taxes other than Poll and Motor Vehicle Excise Taxes, and shall further have the powers and perform the duties from time to time conferred or imposed on Assessors of cities in Massachusetts by General Laws applicable to Boston with respect to taxes other than Poll and Motor Vehicle Excise Taxes.

(Rev. Ord. 1961 c. 5 § 1; Ord. 1961 (Sup. 1971) c. 1 § 4; CBC 1975 Ord. To § 101)

Cross-reference:

G.L. c. 59

6-2.3 Powers and Duties of Associate Commissioners of Assessing.

The Associate Commissioners of Assessing shall have the powers and perform the duties conferred or imposed by law on the Assessor in existence immediately prior to the taking effect of this ordinance with respect, in the case of the Associate Commissioner of Assessing for Motor Vehicle Excises, to Motor Vehicle Excise Taxes, and in the case of the Associate Commissioner of Assessing for Poll Taxes, to Poll Taxes, and shall also have the powers and perform the duties from time to time conferred or imposed on Assessors of cities in

Massachusetts by General Laws applicable to Boston with respect, in the case of the Associate Commissioner of Assessing for Motor Vehicle Excises, to Motor Vehicle Excise Taxes, and in the case of the Associate Commissioner of Assessing for Poll Taxes, to Poll Taxes. In addition, each Associate Commissioner of Assessing may, at such time as he shall have been so authorized by written designation signed by the Commissioner of Assessing, approved by the Mayor and filed with the City Clerk and such authorization shall not have been revoked in like manner, exercise the powers and perform the duties of Commissioner of Assessing in relation to such matters as may be specified in such designation. In the event of the absence, disability or vacancy in office of an Associate Commissioner of Assessing, the powers and duties conferred or imposed upon him by or under this section shall be exercised and performed by the other Associate Commissioner of Assessing.

(Ord. 1961 c. 1 § 4; Rev. Ord. 1961 (Sup. 1971) c. 5 § 3; CBC 1975 Ord. T6 § 102)

Cross-reference:

G.L. c. 59; G.L. c. 60A § 2

Editor's Note:

By St. 1963 C. 160 the poll tax was abolished.

6-2.4 Board of Review.

There shall be in the Assessing Department a Board, known as the Board of Review, consisting of:

a. Such person in the service of the Real Estate Appraisal Division of the Assessing Department as the Mayor, by a writing filed with the City Clerk after the commencement of a municipal year, shall designate to serve ex officio on said Board at his pleasure during such year, who, while so serving, shall be Chairman of said Board;

b. Such person in the service of the Statistical Research Division of the Assessing Department as the Mayor in like manner shall designate to serve ex officio on said Board at his pleasure during such year; and

c. Such person as the Mayor shall appoint from the public at large to serve on said Board for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected.

It shall be the duty of the Board of Review to review every application for the abatement of a Real Estate or Personal Property Tax and report to the Commissioner of Assessing its findings and recommendations with respect thereto, including such suggestion for settlement, if any, as, after discussion with the applicant, the Board may think proper. (Ord. 1961 c. 1 § 4; Rev. Ord. 1961 (Sup. 1971) c. 5 §§ 2, 4; CBC 1975 Ord. T6 § 103)

6-2.5 Application for Abatement.

Every application for abatement filed with the Assessing Department shall be deemed to be filed with, and shall be forthwith transmitted to, in the case of an application for the abatement of a Real Estate or Personal Property Tax, the Commissioner of Assessing, in the case of an application for the abatement of a Motor Vehicle Excise Tax, the Associate Commissioner of Assessing for Motor Vehicle Excises, and in the case of an application for the abatement of a Poll Tax, the Associate Commissioner of Assessing for Poll Taxes.

(Ord. 1961 c. 1 § 4; Rev. Ord. 1961 (Sup. 1971) c. 5 §§ 3, 5; CBC 1975 Ord. T6 § 104)

Editor's Note:

By St. 1963 C. 160 the poll tax was abolished.

6-3 TREASURY DEPARTMENT.

6-3.1 Collector-Treasurer.

a. *Appointment, Term, Powers and Duties.* There shall be in the City a Department, known as the Treasury Department, which shall be under the charge of an Officer, known as the Collector-Treasurer, appointed by the Mayor for a term expiring on the first Monday on the January following the next biennial municipal election at which a Mayor is elected, who shall have the powers and perform the duties from time to time conferred or imposed on him by law, shall also have the powers and perform the duties conferred or imposed by law on the City Collector and the City Treasurer immediately prior to the taking effect of Chapter 2 of the Ordinances of 1954 (including the powers and duties conferred or imposed by Section 7 of Chapter 434 of the Acts of 1943), and shall further have the powers and perform the duties from time to time conferred or imposed on Collectors of Taxes and Treasurers of Cities in Massachusetts by General Laws applicable to Boston.

b. *Survey of Properties.* The Collector-Treasurer shall annually conduct a complete survey of all properties located in the City of Boston which carry a tax delinquent designation and determine the reasons or circumstances for such delinquency and further determine and cause to be executed those remedies the City of Boston may provide.

(St. 1821 c. 110 § 18; St. 1854 c. 448 § 42; St. 1875 c. 176 § 1; St. 1909 c. 490 Part II; St. 1912 c. 272; Ord. 1954 c. 2 § 64; Ord. 1954 c. 6 § 2; Rev. Ord. 1961 c. 25 § 1; CBC 1975 Ord. T6 § 150; Ord. 1983 c. 10)

Cross-reference:

St. 1943 c. 434 § 7

**6-3.2 Divisions of Department;
Appointment of Assistant
Collector-Treasurers.**

There shall be in the Treasury Department a Treasury Division and a Collecting Division; and the Collector-Treasurer shall, with the written approval of the Mayor in each instance, appoint for each division a First Assistant Collector-Treasurer and a Second Assistant Collector-Treasurer, each of whom shall be sworn to the faithful performance of his duties. The First Assistant Collector-Treasurer for each Division, and in the event of his absence or disability or of vacancy in his office the Second Assistant Collector-Treasurer for such Division, shall have charge under the Collector-Treasurer of such Division. Each of said Assistant Collector-Treasurers shall perform under the direction of the Collector-Treasurer such other duties as shall from time to time be assigned to him by the Collector-Treasurer, and may, at such times as he shall have been so authorized by written designation signed by the Collector-Treasurer, approved by the Mayor and filed with the City Clerk and such authorization shall not have been revoked in like manner, exercise the powers and perform the duties of Collector-Treasurer in relation to such matters as may be specified in such designation; provided, that a Second Assistant Collector-Treasurer may be authorized to exercise all the powers and perform all the duties of the Collector-Treasurer only when there is absence or disability or vacancy in office in the case of the Collector-Treasurer, the First Assistant Collector-Treasurer for the Treasury Division and the

First Assistant Collector-Treasurer for the Collecting Division.

(Ord. 1954 c. 6 § 1; Rev. Ord. 1961 c. 25 § 2; CBC 1975 Ord. T6 § 151)

6-3.3 Appointment of Deputy-Collectors.

The Collector-Treasurer may appoint such Deputy Collectors (including a Chief Deputy Collector) as the service may be found to require, who shall have like power as the Collector-Treasurer to receive any tax, assessment, account, debt or claim payable to the City or County and to serve any bill, demand, notice or other paper of the Collector-Treasurer and make affidavit of the manner of such service, and, in addition thereto, shall have power to give notice of, serve and execute any warrant committed to him by the Collector-Treasurer under Section 34 of Chapter 60 of the General Laws, and in the service and execution thereof shall have all the powers and duties of a Collector of Taxes.

(Rev. Ord. 1961 c. 25 § 3; CBC 1975 Ord. T6 § 152)

Cross-reference:

G.L. c. 60 § 34

6-3.4 Bonds of Subordinates.

The Collector-Treasurer shall require from each of his subordinates, before each enters upon the duties of his office or position and annually thereafter and at such other times as the Collector-Treasurer shall determine, for the faithful discharge of his duties and trusts and the safe custody and lawful disposition of all money and other property belonging to the City or County which may come into his possession, a bond running to the Collector-Treasurer with a surety company authorized to transact business in Massachusetts as surety in the penal sum, in the case of an Assistant Collector-Treasurer, of two hundred thousand (\$200,000.00) dollars, and in the case of every other permanent employee, of not less than five thousand (\$5,000.00) dollars nor more than fifty thousand (\$50,000.00) dollars as the Collector-Treasurer shall in each case prescribe.

(Rev. Ord. 1961 c. 25 § 4; CBC 1975 Ord. T6 § 153)

Cross-reference:

Ord. ss 5-5.6

6-3.5 Collection of Accounts by Collector-Treasurer.

The Collector-Treasurer shall collect and receive all taxes and assessments payable to the City or County, whether committed to him or outstanding at the time of his appointment. He shall also collect and receive all accounts, debts and claims payable to the City or County, and in the collection thereof shall have all the remedies provided by Sections 35, 36 and 93 of Chapter 60 of the General Laws. He shall further collect and receive, except where other provision is made, all other money to be paid to, or for the use of, the City or the County. He shall have custody of all leases from the City. He shall, whenever a water rate is paid, immediately notify the Commissioner of Public Works of such payment. (Ord. 1941 c. 6; Rev. Ord. 1961 c. 25 § 5; CBC 1975 Ord. T6 § 154)

Cross-reference:

Ord. ss 11-6.6; Statutes, Title 11 §§ 150, 172, 177

6-3.6 Custody and Deposit of Funds; Signing Bonds; Treasurer of Sinking Fund Commissioners.

The Collector-Treasurer shall receive, receipt for, and have the care, and custody of, the current funds of the City from the time the same shall come into his possession, and also of all money, property, and securities which may come into his possession by virtue of any statute or ordinance, or as a gift, devise, bequest, or deposit; may deposit any portion of such current funds in such savings banks or trust companies organized under the laws of Massachusetts and doing business in Boston or such national banks doing business in Boston or such national bank or trust company in the City of New York, and on such conditions and rates of interest, as he shall deem best, subject to the approval of the Mayor, provided, however, that no such deposit shall be made except in conformity with law; shall, with the Mayor and the City Auditor, sign all bonds and certificates of indebtedness issued by the City; shall preserve all bids for loans, and papers relating thereto; and shall, if elected, serve as Treasurer of the Board of Commissioners of Sinking Funds. If the Collector-Treasurer is elected Treasurer of said Board, his bond as Collector-Treasurer shall apply to and

include his duties as Treasurer of said Board. The Collector-Treasurer shall not be eligible for appointment to said Board.

(Rev. Ord. 1961 c. 25 s. 6; CBC 1975 Ord. T6 § 155; Ord. 1990 c. 3)

Cross-reference:

Ord. ss 6-1.1; Ord. ss 6-1.2

6-3.7 Investment of Public Funds with Tobacco-Related Companies.

No public funds under the care and custody of the Collector-Treasurer of the City of Boston, as specified in subsection 6-3.11, shall be invested or remain invested in the stocks, securities or other obligations of any company which derives more than fifteen (15%) percent of its revenue from the sale of tobacco products. Any proceeds of the sales required under this subsection shall be invested as much as reasonably possible in institutions or companies which invest or conduct business or operations in the City of Boston or the Commonwealth of Massachusetts so long as such use is consistent with sound investment policy.

(Ord. 1997 c. 3)

Editor's Note:

Former subsection 6-3.7, Divesting Municipal/Public Monies Dealing with South Africa, previously codified herein and containing portions of Ordinance Nos. 1984 c. 19 and 1991 c. 6 was repealed in its entirety by Ordinance No. 1994 c. 4.

6-3.8 Payments of Money by Collector-Treasurer.

The Collector-Treasurer shall pay over to the Board of Commissioners of Sinking Funds all money received by him from assessments laid or to be laid on account of betterments from public improvements the expenses of which were paid for by the proceeds of loans, and all sums received from the sale or lease of City property purchased out of the proceeds of loans, except where provision to the contrary is made by statute or ordinance, to be by them credited to the sinking funds established for such loans, or in case of serial loans to be held by them toward paying the installments as they fall due. The Collector-Treasurer shall also pay all drafts, checks and other orders directed to him by the City Auditor, in accordance with these ordinances, for the payment of bills and

demands against the City; shall on presentation pay every execution against the City, when approved by the Corporation Counsel, even if the appropriation to which the execution is chargeable is not sufficient to meet it; shall pay on presentation when due all bonds issued by the City and the interest on the same; shall cancel all bonds and coupons and daily deliver to the City Auditor the bonds and executions paid during the day; shall at the close of business on the last day of each month deliver to the City Auditor the coupons paid during such month and statement of the total amount paid for interest during such month and shall use and apply as the City Council may direct all property, money and securities in his care and custody at the close of each financial year for the application of which no other provision has been made.

(Rev. Ord. 1961 c. 25 § 7; CBC 1975 Ord. T6 § 156)

Cross-reference:

Ord. ss 6-1.3; Ord. ss 8-7.1

6-3.9 Monthly Reports.

The Collector-Treasurer shall, on or before the tenth of each month, render to the Mayor a statement of the receipts and payments of the Treasury Department for the preceding month and a summary of the like items for the current financial year up to the close of the preceding month.

(Rev. Ord. 1961 s. 25 § 8; CBC 1975 Ord. T6 § 157)

6-3.10 Payments to Employees and Others.

The Collector-Treasurer may make payments to school teachers, school building custodians, policemen, witnesses, jurors, and persons employed in and about the various departments and institutions of the City and of the County, in such of the public buildings in the different sections of the City, or upon such public works, as he may designate, and as will best facilitate such payments and prevent the loss of time by the persons receiving them.

(Rev. Ord. 1961 c. 25 § 9; CBC 1975 Ord. T6 § 158)

6-3.11 Disposition of Gifts, Bequests, Investment Thereof.

The Collector-Treasurer, unless the donors have otherwise directed, shall receive all properties given, devised or bequeathed to, or deposited with, the City for any specific purpose, and shall use the same, or the income thereof, as designated in the gift,

devise, bequest or deposit. If the income only is to be used, he shall hold the properties as permanent funds. He shall invest and keep invested the said permanent funds in conformity with Section 54 of Chapter 44 of the General Laws notwithstanding the last sentence thereof. For the purpose of investment and reinvestment he shall have power from time to time in his discretion to sell or exchange any of the securities of which any of the said permanent funds consist; but all purchases, exchanges and sales shall be with the written approval of the Mayor.

To facilitate the investment management of trust funds for which the Collector-Treasurer is custodian, the Collector-Treasurer may cause any security which is an asset of a trust fund for which the Collector-Treasurer is custodian, unless otherwise provided by the specific terms of an individual trust instrument, to be registered and held in the name of a partnership or a corporate nominee named by him. The Collector-Treasurer may do or cause to be done all acts necessary to the creation of such nominee registrations.

(Rev. Ord. 1961 c. 25 § 10; Ord. 1972 c. 3; CBC 1975 Ord. T6 § 159; Ord. 1976 c. 16)

Cross-reference:

G.L. c. 44 §§ 53A, 54; St. 3 § 1

6-3.12 Police Charitable Fund.

The Collector-Treasurer shall use the income of the Police Charitable Fund for the relief of persons in necessitous circumstances who shall be found by the Police Commissioner to have been honorably discharged from the police force by reason of sickness, age or other disability, or to be the widows or orphans of Police Officers who have died while in the service of the City; and may monthly pay to such persons the amount of such income determined and allowed by the Police Commissioner, with the approval of the Mayor, on a monthly payroll sent to the City Auditor.

(Rev. Ord. 1961 c. 25 § 11; CBC 1975 Ord. T6 § 160)

Cross-reference:

Ord. ss 6-1.3

6-4 APPROPRIATIONS AND LOANS.**6-4.1 Submission of Annual Budget.**

In the event that he has not done so prior to such time, the Mayor, not later than the first day of May of each year, shall submit to the City Council the annual budget of the current expenses of the City and County for the forthcoming fiscal year in its entirety as provided for by Chapter 486 of the Acts of 1909. (Ord. 1979 c. 43)

6-5 FINANCE COMMISSION.

No Ordinances Apply. See Special Statutes. (CBC 1975 Ord. T6)

6-6 OFFICE OF THE PARKING CLERK.**6-6.1 Parking Clerk; Appointment and Duties.**

a. There shall be in the City a Division of the Traffic and Parking Department known as the Office of the Parking Clerk, under the control and direction of an official known as the Parking Clerk, appointed by the Mayor with the approval of the City Council under the provisions of the charter and pursuant to Section 20A1/2 of Chapter 90 of the General Laws.

b. The Parking Clerk shall supervise and coordinate the processing of parking notices in the City. The Parking Clerk shall have the authority to hire or designate such personnel as may be necessary or contract by competitive bid including, but not limited to, advertising in a newspaper of general circulation once a week for at least two (2) consecutive weeks, the use of detailed, written publicly available selection criteria by the Parking Clerk, in conformance with any and all special and general laws dealing with open competitive bidding for such services, subject to appropriation, to implement the provisions of this ordinance and Sections 10A1/2, 20C, and 20E, of Chapter 90 of the General Laws.

c. Positions in the Office of the Parking Clerk shall be filled until June 30, 1983, by granting preference to persons who had been employees of the

Police, Fire, or Traffic and Parking Departments of the City after July 1, 1981, and all positions shall be subject to Chapter 31 of the General Laws.

d. The amount expended for personnel of the Office of the Parking Clerk shall not exceed five (5%) percent of the total receipts collected during the previous fiscal year.

(Ord. 1982 c. 14)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

6-6.2 Issuance of Parking Violation Notices.

a. It shall be the duty of every Police Officer, and every person assigned such responsibility, who takes cognizance of a violation of any provision of any rule, regulation, order, ordinance, or bylaw regulating the parking of motor vehicles in the City of Boston forthwith to give the offender a notice to appear before the Parking Clerk, during regular office hours, not later than twenty-one (21) days after the date of the violation.

b. The notice to appear shall be in tag form, as prescribed by Section 20A1/2 of Chapter 90 of the General Laws.

c. The Parking Clerk shall distribute such violation notices to the Police Commissioner and Traffic and Parking Commissioner and other authorized enforcement officials upon request, and shall take a receipt therefor.

d. Notice affixed to a motor vehicle as provided in Section 20A1/2 of Chapter 90 shall be deemed a sufficient notice and shall be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative proceedings of the Office of the Parking Clerk as to the facts contained therein.

e. At or before the completion of each tour of duty, the officer shall give to his commanding officer

copies of each notice of violation issued during such tour. The commanding officer shall retain and safely preserve one copy of each violation notice and shall at a time no later than the beginning of the next business day, deliver a copy of the notice to the Office of the Parking Clerk. The Parking Clerk shall maintain a docket of all such notices to appear.

(Ord. 1982 c. 14)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

6-6.3 Schedule of Fines.

a. The fine for parking a vehicle in violation of any posted prohibition against stopping or standing of motor vehicles shall be seventy-five (\$75.00) dollars for each such violation. A penalty of twenty-five (\$25.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

b. The fine for parking a vehicle in violation of the prohibition against parking in excess of one vehicle width from the curb or edge of a roadway (double parking) within "Zone A," as defined by the Boston Transportation Commission, shall be forty-five (\$45.00) dollars for each such violation. A penalty of fifteen (\$15.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

c. The fine for parking a vehicle in violation of the prohibition against parking on the roadway side of any vehicle stopped or parked at the curb or edge of a roadway (double parking) within "Zone B," as defined by the Boston Transportation Commission, shall be thirty (\$30.00) dollars for each such violation. A penalty of ten (\$10.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

d. The fine for parking a vehicle in violation of the prohibition against parking within an intersection, or upon any street or roadway within twenty (20') feet of an intersecting way, except alleys,

shall be forty (\$40.00) dollars for each such violation. A penalty of thirteen (\$13.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

e. The fine for parking a vehicle in violation of the prohibition against parking within ten (10') feet of a fire hydrant shall be one hundred (\$100.00) dollars for each violation. A penalty of thirty-three (\$33.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

f. The fine for parking a vehicle in violation of the prohibition against parking within Residential Parking Districts, unless said vehicle displays in the rear window a valid and current sticker as issued by the Transportation Department for the district in which the vehicle is parked, shall be forty dollars and no cents (\$40.00) for each such violation. A penalty of thirteen dollars and no cents (\$13.00) shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

g. The fine for parking a vehicle in any public hackney carriage stand shall be fifty (\$50.00) dollars for each such violation. A penalty of sixteen (\$16.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

h. The fine for parking a vehicle in violation of the prohibition against parking upon any roadway where the parking of the vehicle will not leave a clear and unobstructed lane at least ten (10') feet wide for passing traffic (fire lane) shall be one hundred (\$100.00) dollars for each such violation. A penalty of thirty-three (\$33.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

i. The fine for parking a vehicle in violation of the prohibition against parking upon any sidewalk shall be sixty-five (\$65.00) dollars for each such violation. A penalty of twenty-one (\$21.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

j. The fine for parking a vehicle in violation of the prohibition against parking upon any crosswalk shall be eighty-five (\$85.00) dollars for each such violation. A penalty of twenty-eight (\$28.00) dollars

shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

k. The fine for parking a vehicle in front of any pedestrian sidewalk ramp shall be one hundred (\$100.00) dollars for each such violation. A penalty of thirty-three (\$33.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

l. The fine for parking a vehicle not bearing distinctive license plates as issued by the Registry of Motor Vehicles to handicapped persons or disabled veterans on any street or part thereof where signs are erected reserving the space of HP or DV plate vehicles shall be one hundred twenty (\$120.00) dollars for each such fine. A penalty of forty (\$40.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

m. The fine for parking a vehicle in violation of the prohibition against parking in a loading zone shall be fifty-five (\$55.00) dollars for each such violation. A penalty of eighteen (\$18.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

n. Unless otherwise specified in this subsection 6-6.3, the fine for parking a vehicle in violation of the prohibition against parking of motor vehicles within "Zone A," as defined by the Transportation Commission, shall be fifty-five (\$55.00) dollars for each such violation. A penalty of eighteen (\$18.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

o. The fine for parking a vehicle in violation of any posted prohibition against parking of motor vehicles during hours designated for street cleaning shall be forty (\$40.00) dollars for each such violation. A penalty of thirteen (\$13.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

p. The fine for parking a vehicle in a metered space during the hours when the parking meter zone is effective and failing to immediately deposit the required fee in the amount indicated on said meter, and if so required, set the mechanism in motion, shall

be twenty-five (\$25.00) dollars. A penalty of eight (\$8.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

q. The fine for parking a vehicle in violation of the prohibition against parking during a snow or weather emergency as declared by the Commissioner of Transportation shall be forty-five (\$45.00) dollars. A penalty of fifteen (\$15.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

r. The fine for stopping, standing or parking any vehicle other than a bus in an area designated as a bus stop shall be fifty-five (\$55.00) dollars. A penalty of eighteen (\$18.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

s. The fine for parking or standing any vehicle bearing commercial vehicle number plates, or any semi-trailer, having a capacity of one (1) ton or over, for more than one (1) hour between 9:00 p.m. of one (1) day and 8:00 a.m. of the following day, or any time on Sunday, on any part of any street, way, highway, road or parkway under the control of the City, where parking or standing a vehicle is not otherwise prohibited shall be sixty-five (\$65.00) dollars. A penalty of twenty-one (\$21.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

t. The fine for parking a vehicle in excess of twelve (12") inches from the edge of a curb or roadway shall be thirty-five (\$35.00) dollars. A penalty of eleven (\$11.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

u. The fine for stopping, standing or parking a vehicle in front of any driveway shall be twenty-five (\$25.00) dollars. A penalty of eight (\$8.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

v. The fine for stopping, standing or parking a vehicle adjacent to or upon any center division strip, street car reservation, or island placed upon and being a part of any public way, unless the vehicle is entirely

within a parking meter space or in a space otherwise provided, shall be forty (\$40.00) dollars. A penalty of thirteen (\$13.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

w. The fine for failing to park a vehicle wholly within a parking meter space shall be twenty-five (\$25.00) dollars. At the drive-in stall of either a single or a dual parking meter, the fine for failing to park a vehicle with the right front bumper perpendicular to the meter post shall be twenty-five (\$25.00) dollars. At the back-in stall of a dual parking meter, the fine for failing to park a vehicle with the right rear bumper perpendicular to the meter post shall be twenty-five (\$25.00) dollars. A penalty of eight (\$8.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

x. The fine for permitting a vehicle, except a commercial vehicle, as defined by the Transportation Commission, to remain in a parking meter space beyond the maximum period of time allowed in the particular zone shall be twenty-five (\$25.00) dollars. A penalty of eight (\$8.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

y. The fine for parking a vehicle at a parking meter space where the meter device displays the statement "Not a Legal Space - Violation," shall be twenty (\$20.00) dollars. A penalty of six (\$6.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

z. The fine for parking a vehicle continuously for any period of time exceeding the posted limit within "Zone A," as defined by the Transportation Commission, shall be twenty-five (\$25.00) dollars. A penalty of eight (\$8.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

aa. The fine for parking a vehicle not bearing a valid registration plate(s) as required under Chapter 90 of the Massachusetts General Laws, on any street, way, highway, road or parkway under the control of the City shall be forty (\$40.00) dollars for each such violation. A penalty of thirteen (\$13.00) dollars shall

be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

bb. The fine for parking a vehicle bearing an expired registration as required under Chapter 90 of the Massachusetts General Laws, on any street, way, highway, road or parkway under the control of the City shall be forty (\$40.00) dollars for each such violation. A penalty of thirteen (\$13.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

cc. The fine for parking a vehicle not bearing a valid certificate of inspection as required under Chapter 90 of the Massachusetts General Laws, on any street, way, highway, road or parkway under the control of the City shall be forty (\$40.00) dollars for each such violation. A penalty of thirteen (\$13.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

dd. The fine for parking a vehicle bearing an expired certificate of inspection as required under Chapter 90 of the Massachusetts General Laws, on any street, way, highway, road or parkway under the control of the City shall be forty (\$40.00) dollars for each such violation. A penalty of thirteen (\$13.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

ee. The fine for parking a vehicle on any street, way, highway, road or parkway under the control of the City for the purpose of performing non-emergency repairs on said vehicle shall be forty (\$40.00) dollars for each such violation. Nonemergency repairs shall mean the changing of any vehicle fluid and any other repair with the exception of minor safety related repairs that can be fully completed within ninety (90) minutes, such as changing a flat tire, replacing a headlight or bulb, or replacing a wiper blade. A penalty of thirteen (\$13.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

ff. The fine for parking any motor vehicle having a gross vehicle weight in excess of twelve thousand (12,000) pounds between the hours of 9:00 p.m. of one (1) day and 8:00 a.m. of the following day or anytime on Sunday, on any part of any street, way, highway, road or parkway under the control of

the City that is residential shall be one hundred (\$100.00) dollars. A penalty of thirty-three (\$33.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after the issuance of a notice of such violation.

gg. The fine for parking a vehicle upon any street, highway, road or parkway under the control of the City where such vehicle possesses an unauthorized and/or revoked City of Boston Resident Parking Permit shall be one hundred (\$100.00) dollars for each such violation. A penalty of thirty-three (\$33.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after the issuance of a notice of such violation.

hh. The fine for parking a vehicle in violation of the prohibition against parking of motor vehicles within "Zone B", as defined by the Transportation Commissioner, shall be twenty-five (\$25.00) dollars for each such violation. A penalty of eight (\$8.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

ii. The fine for parking a vehicle continuously for any period of time exceeding the posted limit within "Zone B", as defined by the Transportation Commissioner, shall be twenty-five (\$25.00) dollars for each such violation. A penalty of eight (\$8.00) dollars shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.
(Ord. 1983 c. 20 § 2; Ord. 1985 c. 4 § 79; Ord. 1990 c. 5, Ch. 10 §§ 2, 3; Ord. 1993 c. 1; Ord. 1993 c. 6; Ord. 1998 c. 6 §§ 1, 3; Ord. 2002 c. 2; Ord. 2002 c. 4; Ord. 2002 c. 5; Ord. 2003 c. 12; Ord. 2003 c. 13; Ord. 2003 c. 14; Ord. 2003 c. 15; Ord. 2005 c. 6; Ord. 2005 c. 9; Ord. 2007 c. 8; Ord. 2008 c. 5; Ord. 2010 c. 4)

6-6.4 Payment of Fines.

a. Any person receiving a violation notice may appear before the Parking Clerk, or his designee, and confess the offense charged, either personally, through an agent duly authorized in writing, or by mailing to the Parking Clerk the notice accompanied by the fine provided therein. Payment by mail shall be made only by postal note, money order, or check made out to the Parking Clerk. Payment in person may be made by cash, postal order, money order, or check made out to the Parking Clerk and in the case of

payment made in cash the Parking Clerk shall issue a receipt therefor. Payment of a fine shall operate as a final disposition of the case.

b. The Transportation Commission shall from time to time establish by rule or regulation a schedule of fines for violations of any provision of any rule, regulation, order, ordinance or bylaw regulating parking in the City. All such fines shall be uniform for the same offense committed in the same zone. Increase in such fines from the fifteen (\$15.00) dollar limit set by Section 20A1/2 of Chapter 90 shall be established by ordinance.
(Ord. 1982 c. 14)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

6-6.5 Hearings and Appeals.

a. If any person, fails to appear and pay the prescribed fine within twenty-one (21) days as required by Section 20A1/2 of Chapter 90 or if such person having appeared, within twenty-one (21) days as required by Section 20A1/2 of Chapter 90, desires not to avail himself of the benefits of the procedure established by this ordinance, the Parking Clerk shall as prescribed by Section 20A1/2 of Chapter 90, forthwith schedule the matter before a person hereafter referred to as a Hearing Officer. The Hearing Officer shall be the Parking Clerk or other such person as the Parking Clerk may designate.

b. Written notice of the date, time and place of the hearing shall be sent by first-class mail to the registered owner. The hearing, as prescribed by Section 20A1/2 of Chapter 90, shall be informal, the rules of evidence shall not apply, and the decision of the Hearing Officer shall be final, subject to judicial review under Section 14 of Chapter 30A.

c. The Hearing Officer shall have authority to only adjudicate disputes as to the validity of the parking violation notices issued for violations of the rules and regulations of the Boston Traffic and Parking Commission.

d. Proceedings for review of the decision of the Parking Clerk shall be instituted in the Suffolk Superior Court within thirty (30) days after receipt of notice of the final decision of the Parking Clerk or if a petition for rehearing has been timely filed with the Parking Clerk, within thirty (30) days after receipt of notice of the Parking Clerk's denial of such petition for rehearing. The commencement of an action shall not operate as a stay of enforcement of the Parking Clerk's decision, but the Parking Clerk may stay enforcement, and the reviewing court may order a stay upon such terms as it considers proper as prescribed by Section 14 of Chapter 30A. The City shall, by way of answer, file in court the original or a certified copy of the record of the proceeding under review.

(Ord. 1982 c. 14)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

6-6.6 Impoundment of Vehicles.

a. If any person shall have failed to appear in accordance with five (5) or more said notices, the Parking Clerk shall as prescribed by Section 20A1/2 of Chapter 90 notify the Police Commissioner or Commissioner of Traffic and Parking that the vehicle involved shall be removed and stored or otherwise immobilized at the expense of the registered owner until such time as the matter has been disposed of in accordance with law. A notice announcing such action shall be mailed to the registered owner by the Parking Clerk.

b. No motor vehicle impounded pursuant to an arrest for OUI may be released prior to the passing of twelve (12) hours following the arrest.

c. No motor vehicle impounded pursuant to an arrest for or an arrest related to manufacturing, compounding, processing, delivering, dispensing, distributing, importing, or exporting of any controlled

substance in violation of any provision of M.G.L. c.94, sections 32, 32A, 32B, 32C, 32D, 32E, 32F, 32G, 32I, 32J, or 40 or otherwise involving possession of a controlled substance, purchase of a controlled substance, and/or distribution of a controlled substance may be released until (i) forty-eight (48) hours have passed from the time of the related arrest, (ii) a fine in the amount of three hundred dollars and no cents (\$300.00) has been paid and evidence of payment is presented, and (iii) seizure proceedings, if commenced, have been closed. All monies collected pursuant to this section shall be dedicated and directed to drug treatment programs in the City of Boston and law enforcement programs targeting drug trafficking in the City of Boston.

d. No motor vehicle impounded pursuant to arrest for or an arrest related to solicitation (M.G.L. c.272, s.8), common nightwalker (M.G.L. c.272, s.53), prostitution (M.G.L. c.272, s.53 via c.277, s.79), support from prostitution (M.G.L. c.272, s.7), room/building for prostitution (M.G.L. c.272, s.9), enticing (M.G.L. c.272, s.2), control of place for prostitution (M.G.L. c.272, s.6), and/or keeping a house of ill fame (M.G.L. c.272, s.24), may be released until (i) forty-eight (48) hours have passed from the time of the related arrest, (ii) a fine in the amount of three hundred dollars and no cents (\$300.00) has been paid and evidence of payment is presented, (iii) all fees related to the towing and storage of the impounded vehicle have been paid and evidence of payment is presented, and (iv) seizure proceedings, if commenced, have been closed. All fine monies collected pursuant to this section shall be dedicated to prostitute recovery programs in the City of Boston and law enforcement programs targeting solicitation in the City of Boston.

(Ord. 1982 c. 14; Ord. 2002 c. 10; Ord. 2004 c. 7; Ord. 2004 c. 8)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

6-6.7 Nonrenewal of License and Registration.

a. If any person fails to appear in accordance with the notice of a hearing, the Parking Clerk shall notify the Registrar of Motor Vehicles who shall, as required by Section 20A1/2 of Chapter 90, place the matter on record and not renew the license to operate motor vehicles of the registered owner of the vehicle or the registration of said vehicle until after notice from the Parking Clerk that the matter has been disposed of in accordance with law.

b. It shall be the duty of the Parking Clerk to notify the registrar forthwith that such case has been disposed of in accordance with law, provided however, that a certified receipt of full and final payment from the Parking Clerk shall also serve as legal notice as prescribed by Section 20A1/2 of Chapter 90 to the registrar that said violations have been disposed of.
(Ord. 1982 c. 14)

6-6.8 Licensed Taxi Cabs and Leased Vehicles.

a. Anything contained herein notwithstanding, if the registered owner of a motor vehicle involved in a parking violation subject to this section is a person or entity engaged in the licensed taxicab business or the business of leasing motor vehicles, and such motor vehicle is under lease or being operated for hire at the time of such violation the procedures of this subsection shall be applicable, and the registered owner shall be liable for any unpaid fines only upon compliance by the Parking Clerk as defined above with the procedures hereinafter set forth:

b. The Parking Clerk shall give to the registered owner notice in writing of each violation in which a motor vehicle owned by such owner is involved, including the license number of the vehicle, state of issue and date and time of the violation.

c. Within thirty (30) days, the registered owner shall furnish to such Parking Clerk in writing the name and address of the lessee of such motor vehicle at the time of such violation and if the lessee is also the operator, the license number, and state of issue of the license of such lessee.

d. The Parking Clerk shall thereupon issue a notice of violation to such lessee in the form prescribed by this ordinance.

e. If such lessee does not appear in person or by writing as otherwise provided in the ordinance or make payment within twenty-one (21) days from the date on which such notice is issued, the Parking Clerk shall notify the registrar as provided by the provisions of Section 20A and 20A1/2, and the Clerk of the Division of the District Court Department or Boston Municipal Court Department of the Trial Court having jurisdiction. Upon notification by the Parking Clerk the registrar shall suspend any license issued under this chapter or suspend the right to operate of a person not licensed in this commonwealth; and the Clerk of the District Court of the trial court having jurisdiction shall forthwith issue a criminal complaint against the lessee and thereafter proceed against such lessee following the procedures established for criminal cases.

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f. After notification of the Registrar and the Clerk of the District Court Department of the Trial Court having jurisdiction of nonpayment by the lessee within twenty-one (21) days of the fine imposed by the City, the Parking Clerk shall notify by first-class mail, the registered owner of such nonpayment. The registered owner shall, within thirty (30) days after receipt of such notice, pay the fine for such violation. If thereafter, any payment is received by the Parking Clerk from or on behalf of the lessee, the Parking Clerk shall forthwith reimburse to the registered owner the amount paid by such registered owner. If any payment is received by the court from or on the behalf of the lessee, the Clerk of the Division of the District Court Department or the Boston Municipal Court Department of the Trial Court having jurisdiction shall forward said payment to the Parking Clerk who shall forthwith reimburse to the registered owner the amount paid by such registered owner, if not previously reimbursed. The Registrar shall remove any suspension of license or right to operate upon the payment in full to the Parking Clerk of the fine and penalty for such violation by the lessee.

g. The provisions of this ordinance shall be applicable to lessees of motor vehicles as provided herein.

h. Any registered owner and Parking Clerk may by agreement upon such terms and conditions as they may deem appropriate provide for the transmission of the information hereinbefore referred to in paragraphs b. and c. of this subsection, on magnetic tape or in other computer readable format, in order to expedite completion of the foregoing procedures.
(Ord. 1982 c. 14)

6-6.9 Agreements With Other Governmental Agencies.

a. The Parking Clerk shall have the authority to enter into such agreements and contracts with other Cities, Towns, and government agencies within the Commonwealth as may be necessary or expedient to effectuate the collection of fines and adjudication of parking violation notices.

b. Such agreements and contracts shall be subject to the approval of the Corporation Counsel and the Mayor.
(Ord. 1982 c. 14)

6-6.10 Statutes Applicable.

This ordinance shall be construed to conform to the provisions of Sections 20A1/2, 20C, 20D, and 20E of Chapter 90, as amended, and to Section 4A of Chapter 90C, as amended, and other applicable laws of the Commonwealth.
(Ord. 1982 c. 14)

6-7 DISABLED VETERANS/HANDICAPPED PARKING.

6-7.1 Purpose.

The purpose of this section is to insure Boston residents who are disabled veterans or handicapped have access to public and private facilities and services; to provide regulations for the designation, enforcement and penalty for misuse of parking areas designated as reserved for disabled veterans or handicapped persons; and to establish a temporary identification system for use of parking areas designated as reserved for disabled veterans or handicapped persons.
(Ord. 1983 c. 20)

6-7.2 Scope.

a. This section shall apply to any person or body that has lawful control of a public or private way or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees.

b. Such persons or bodies shall designate parking areas as reserved for motor vehicles owned and operated by a disabled veteran or a handicapped person whose vehicle bears the HP/V distinguishing license plate authorized by Section 2 of Chapter 90 of the General Laws of the Commonwealth of Massachusetts or the temporary identification authorized by the provisions of this section.

c. Such persons or bodies shall assure that said spaces conform with the size, width and location requirements as set forth in Section 21, clause 13(a) of Chapter 40 of the General Laws of the Commonwealth of Massachusetts.

d. Such persons or bodies shall display signs which state that HP/V parking regulations shall be enforced.

e. Parking spaces designated as reserved under the provisions of this section shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "HP/V PARKING ONLY: Special Identification Required. Unauthorized vehicles May be Ticketed or Removed at Owner's Expense." Complaints shall be referred to the Commission on the Handicapped for enforcement.

f. The Department of Traffic and Parking may deny or revoke licenses granted pursuant to Section 56 of Chapter 148 of the General Laws of the Commonwealth of Massachusetts to licensees of open-air parking spaces not in compliance with the provisions of this section.

g. The Department of Traffic and Parking shall be authorized to remove or select an independent contractor to remove motor vehicles obstructing any curb ramp designated for use by disabled veterans or handicapped persons or obstructing any parking spaces reserved for a motor vehicle owned and operated by a disabled veteran or handicapped persons whose vehicle bears the distinguishing license plate authorized by Section 2 of Chapter 90 of the General Laws of the Commonwealth of Massachusetts or who is in possession of the temporary identification authorized by the provisions of this section.

h. There shall be two forms of motor vehicle identification for the purpose of this section. The HP/V distinguishing license plate authorized by Section 2 of Chapter 90 of the General Laws of the Commonwealth of Massachusetts and the temporary identification authorized by the provisions of this section.

(Ord. 1983 c. 20)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

6-7.3 Identification Card.

The Commission on Handicapped in cooperation with the Department of Traffic and Parking shall issue a temporary identification card certifying the right of the holder to use parking spaces designated as reserved for disabled veterans or handicapped persons in the following circumstances: disabled veterans or handicapped persons who have applied for but not yet received the distinguishing license plate authorized by Section 2 of Chapter 90 of the General Laws of the Commonwealth of Massachusetts; disabled veterans or handicapped persons whose motor vehicle is out of service and who are using a motor vehicle not bearing said distinguishing license plate; disabled veterans or handicapped persons who have an out-of-state HP/V license plate; and individuals who have acquired a temporary disability of a severe nature and who can provide medical documentation of same. A separate dashboard card shall be issued to those who transport persons who are blind or mobility impaired which will allow sixty (60) minute parking in HP/V designated areas. Said cards shall be valid for a maximum of ninety (90) days and shall be distinctive so as to disallow fraud, and shall be numbered and tracked by a comprehensive record keeping process. Any person who improperly uses a motor vehicle with a HP/V distinguishing plate or temporary identification authorized by the provisions of this section shall be subject to a fine of two hundred (\$200.00) dollars. If a person receives a parking violation while properly using HP/V distinguishing plate or temporary identification authorized by the provisions of this section, said violation shall be dismissed if, prior to twenty-one (21) days evidence demonstrating to use handicapped parking rights at the time of receiving the ticket.

(Ord. 1983 c. 20; Ord. 1984 c. 8)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

6-7.4 Revocation of Designated Parking Space.

Whenever the Transportation Department shall have designated a particular parking space as reserved for handicapped persons as a result of a request made by a qualified resident applicant residing nearby and two (2) years have elapsed since designation, the person who filed the request shall be notified in writing that unless an affidavit of continued need (in a form to be provided by the Department) is filed within sixty (60) days, the designation will be revoked. Where no such affidavit is timely filed, the designation shall be deemed revoked and marking signs removed forthwith.

(Ord. 1996 c. 13)

6-8 MUNICIPAL DEPOSITORIES.

6-8.1 Definitions.

a. *Applicant* shall mean any person who applies for a mortgage loan, commercial loan, home equity, consumer, home improvement or student loan as defined in this section, whether or not the loan is granted.

b. *Census tract* shall mean a standard statistical area as established by the United States Bureau of Census.

c. *Collector-Treasurer* shall mean the Collector-Treasurer of the City of Boston.

d. *Commercial loan* shall mean a loan which is secured by commercial property.

e. *Financial institution* shall mean any commercial bank, savings bank, savings and loan association, credit union, cooperative bank, mutual bank, trust company, or other entity which makes mortgage, consumer, commercial, community development or home improvement loans.

f. *Boston SMSA* shall mean the Standard Metropolitan Statistical Area of the Greater Boston Region as defined by the United States Bureau of Census.

g. *Home improvement or rehabilitation loan* shall mean a loan, the proceeds of which are to be used for the purpose of repairing, rehabilitating or remodeling an existing residential dwelling.

h. *Mortgage loan and home equity loan* shall mean a loan which is secured by residential property.

i. *Consumer loan* shall mean a loan which is secured by an individual or families to finance personal consumption.

j. *Community development loan* shall mean a loan which is secured for the purposes of constructing or rehabilitating commercial or residential property.

k. *Student loan* shall mean a loan which is secured for the purposes of financing or refinancing a student's attendance at any degree granting educational institution authorized by law to provide a program of education beyond the high school level, made by or on behalf of such an institution of any financial institution.

l. *Redlining* shall mean the practice of systematically denying credit on the basis of the geographic location of the borrower or property to be borrowed against.

(Ord. 1990 c. 3 § 1)

6-8.2 Disclosure of Lending Information.

Prior to the deposit of any City monies in any financial institution, as authorized by the Collector-Treasurer in accordance and in conjunction with the provisions of Section 5b of Chapter 40, Sections 36, 44 and 46 of Chapter 41 and Sections 53-55 of Chapter 44 of the MGLA, such financial institution shall disclose the following information and data on forms approved by the Collector-Treasurer for each census tract within the City of Boston and outside the City of Boston within the Boston SMSA:

a. *Loan Activity.*

1. The number of loans and total dollar amount;

2. The median effective interest rate;

3. The median down payment;

4. The median amortization;

5. The percentage of such applicants whose applications were denied;

for the following types of loans:

(a) Residential loans: Data shall be reported separately for property containing (i) one (1) to four (4) dwelling units; and (ii) five (5) to eight (8) dwelling units; and (iii) more than eight (8) dwelling units. Only loans closed within the previous calendar year shall be reported. The information and data for mortgage loans shall be further itemized listing the following separately:

(1) Conventional mortgage loans and;

(2) Mortgage loans which are insured under title II of the Housing Act of 1949, or which are guaranteed under chapter 37 of title 38, United States Code (FHA, FMHA, or VA loans).

(3) Mortgage loans which are insured or financed by the Massachusetts Housing Finance Agency (MHFA).

(b) Home improvement loans or rehabilitation loans made on residential properties.

(c) Home equity loans.

(d) Commercial loans.

(e) Consumer loans.

(f) Community development loans.

(g) Student loans.

b. Participation and Services.

1. The financial institution's participation in local community development projects or, financing of low and middle income housing;

2. The availability of banking services, including but not limited to, the location of branch

offices, automated teller machines (ATM) and the availability of bank personnel to service loans;

3. The hiring and promotion of women, minorities and Boston residents;

4. Deposit information, including but not limited to, the number of savings and checking accounts and the total dollar balances in the savings and checking accounts.

(Ord. 1990 c. 3 § 2)

6-8.3 Failure to Provide Information.

If any financial institution refuses to provide any of the information or data, the Collector-Treasurer shall report such refusal to the Mayor and the City Council. If such institution has previously been designated by the Collector-Treasurer as a City depository, the City shall withdraw such designation. The Treasurer shall also maintain a list of any financial institutions which refuse to provide such information, which list shall be a public record.

(Ord. 1990 c. 3 § 3)

6-8.4 Pledge.

Beginning in January of 1990, prior to the deposit of any City monies in any financial institution, the City Collector-Treasurer shall obtain the following pledges from an authorized official of said institution:

a. Not to discriminate against any individual or group seeking a mortgage, commercial, consumer, home improvement, or community development loan in the fixing of the amount, interest rate, duration, down payment or other terms or conditions of such loan, because of race, color, religion, sex, gender identity or expression, or national origin of such individual or group or of any individual or group associated with him or her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or the dwelling or dwellings, if any in relation to which such loan or other financial assistance is to be made or given; and

b. Not to indulge in redlining activities against any City neighborhood, including arbitrarily rejecting mortgage loans for residential properties within a specific geographic area in Boston because of the

location and/or age of the property; and to make and affirmatively market loans available on low and moderate income residential property in all the neighborhoods of the City of Boston within the limits of legal restrictions and prudent financial practices. (Ord. 1990 c. 3 § 4; Ord. 2002 c. 9)

6-8.5 Municipal Banking Commission.

a. There shall be, in the City of Boston, a Commission known as the Municipal Banking Commission for the purposes of analyzing data and information submitted to the Treasurer by financial institutions wishing to become City depositories.

b. The Commission shall consist of five (5) members who shall be appointed by the Mayor. The members shall serve without compensation; provided, however, that each member may be reimbursed by the Commission for all expenses reasonably incurred by them in the performance of their duties. The Commission shall consist of the following persons:

1. The Collector-Treasurer of the City of Boston ex-officio or his or her designee;

2. The President of the Boston City Council ex-officio or his or her designee;

3. One (1) individual from an organization that seeks to address community reinvestment needs;

4. One (1) individual from a financial institution doing business in the City of Boston;

5. One (1) individual from a non-profit organization which seeks to address the housing needs in the City of Boston;

6. Two (2) individuals residing in the neighborhoods of the City of Boston most affected by redlining activities.

c. The term for each Commissioner shall be three (3) years; provided, however, that of the members first appointed to the commission, two (2) shall serve for two (2) years and two (2) shall serve for one (1) year. The Commissioners shall appoint a Chairperson. Vacancies shall be filled by the Mayor. (Ord. 1990 c. 3 § 5)

6-8.6 Evaluation of Data.

Each year, prior to the authorization of deposits of City monies with any financial institutions, the Commission shall submit a report to the Mayor and the City Council detailing the information submitted by each lender and recommend to the Treasurer those institutions whose performance best reflects the City's goal of encouraging lending within the community.

The Commission's report and recommendations shall be based on review of the information submitted pursuant to subsection 6-8.2 of this section including:

a. Evaluation of each lender's performance in granting mortgage, home improvement, home equity, commercial, consumer and community development loans.

b. The lender's compliance with the requirements of the Community Reinvestment Act of 1977, including the duty to educate the public regarding CRA requirements.

c. Current activity in minority and low and moderate income neighborhoods and the availability of bank personnel to serve loans in those areas.

d. Initiatives in areas such as commercial lending and low and moderate income housing. (Ord. 1990 c. 3 § 6)

6-8.7 Severability Clause.

Each of the provisions, sections, and subsections of this section are severable, and if any of its provisions, sections, or subsections shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decisions of such court shall not affect or impair any of the remaining provisions, sections, or subsections. (Ord. 1990 c. 3 § 7)

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CHAPTER VII

ENVIRONMENTAL PROTECTION

7-1 CONSERVATION COMMISSION.

7-1.1 Composition of Board; Terms of Office.

There shall be in the City a board, known as the Conservation Commission, consisting of the Commissioner of Parks and Recreation, ex officio, and six (6) Conservation Commissioners, who shall be residents of the City, appointed by the Mayor, of whom two (2) shall be appointed from candidates nominated, one (1) each by the Board of Directors or like body of the following corporations or organizations: the Massachusetts Audubon Society, Inc., the Massachusetts Forest and Park Association, the Massachusetts Roadside Council, the Trustees of Reservations, the Eastern Massachusetts Group of the New England Chapter of the Sierra Club, Boston Green Space Alliance, the Boston Harbor Associates, Boston Urban Gardeners, Friends of the Boston Harbor Islands, Save the Harbor/Save the Bay, the Boston Natural Areas Fund, the Charles River Watershed Association, and the Neponset River Watershed Association. As the term of any Conservation Commissioner expires, his successor shall be appointed in like manner for a term of three (3) years. Any vacancy in the office of a Conservation Commissioner shall be filled in like manner for the unexpired term.

The Mayor shall from time to time designate one of the Conservation Commissioners as Chairman and another as Vice-Chairman. The Commission shall elect a secretary who need not be a member of the Commission.

The Commissioners shall serve without compensation, and shall be deemed to be special municipal employees for the purposes of Chapter 268A of the General Laws.

(Ord. 1970 c. 10; Rev. Ord. 1961 (Sup. 1971) c. 10.1 § 1; CBC 1975 Ord. T7 § 1; Ord. 1988 c. 16 §§ 1-4)

Cross-reference:

G.L. c. 268A; Ord. ss 7-4.1

7-1.2 Powers and Duties.

The Conservation Commission shall, subject to the provisions of the charter as that term is defined in clause Fifth of Section 7 of Chapter 4 of the General Laws, have the powers and perform the duties from time to time conferred or imposed on conservation commissions by Section 8C of Chapter 40 of the General Laws.

The Commission, with the approval of the City Council, may from time to time promulgate, amend, and repeal regulations relative to the collection of recyclable materials. Such regulations shall be adopted only after public hearing and in consultation with the Commissioner of Public Works. The Commission may, in its own discretion, grant or withhold a permit or permits allowing the collection of recyclable materials from places on or abutting public ways, which permit or permits may allow practices prohibited by subsection 16-1.21 of the ordinances; provided, however, that before any such permit is issued the Commission shall satisfy itself that the potential permittee will conduct such collection in a manner consistent with the protection of the public health and safety. No such permit shall be issued for a period greater than one year, and all shall be subject to revocation by the Commission at any time. The

Commission may impose conditions and restrictions on permittees and may require the posting of security for faithful performance by a permittee.

(Rev. Ord. 1961 (Sup. 1971) c. 10.1 § 2; Ord. 1973 c. 12 § 1; CBC 1975 Ord. T7 § 2)

Cross-reference:

G.L. c. 4 § 7; G.L. c. 40 § 8C

7-1.3 Duties of Public Facilities Commission and Public Improvement Commission.

The Public Facilities Commission shall not transfer any land from the municipal purpose to which it is devoted at the time of transfer to any other municipal purpose unless not less than fourteen (14) nor more than ninety (90) days prior to transfer, the Director of Public Facilities has given the Conservation Commission written notice of his intention to recommend such transfer; nor shall the Public Improvement Commission lay-out, relocate, or widen any public way unless not less than fourteen (14) nor more than ninety (90) days prior to such laying-out relocation or widening, the Commissioner of Public Works has given the Conservation Commission written notice of his intention to recommend such laying-out, relocation or widening. (Rev. Ord. 1961 (Sup. 1971) c. 10.1 § 3; CBC 1975 Ord. T7 § 3)

Cross-Reference:

Statutes, Title 8 §§ 11,12; Ord. ss 11-6.9

7-2 AIR POLLUTION CONTROL COMMISSION.

7-2.1 Appointment; Powers and Duties.

There shall be in the Health and Hospitals Departments a Board, known as the Air Pollution Control Commission, consisting of the Commissioner of Health and Hospitals, ex officio; the Commissioner of Traffic and Parking, ex officio; and three (3) members appointed by the Mayor. The appointive members shall serve for a term expiring on the first Monday of January, 1980. As the term of any member expires, his successor shall be appointed by the Mayor for a term of three (3) years. Any vacancy in the office of an appointive member shall be filled by the

Mayor for the unexpired term. All members of the Commission shall serve without compensation.

The Air Pollution Control Commission shall not be subject to the supervision or control of the Board of Health and Hospitals or of Commissioner of Health and Hospitals except as he acts as a member of the Commission; but unless otherwise ordered by the Mayor, the Commission shall not communicate with the Mayor, or make any annual or other report, except through the Board of Health and Hospitals.

The Air Pollution Control Commission shall have full jurisdiction to regulate and control atmospheric pollution as now or hereafter provided in Section 31C of Chapter 111 of the General Laws.

The Air Pollution Control Commission shall have jurisdiction to investigate, control and abate noise from whatever source, and shall also have power, after due notice and a public hearing, to adopt noise level standards and to promulgate regulations, including regulations providing that no activity likely to produce unreasonable noise may be carried on unless a permit therefor is first obtained from the Commission, which may specify in such permit the time or times within which, and the method by which, such activity is to be carried on. The Commission may fix a fee of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars for each permit issued by it.

The Air Pollution Control Commission shall have power to require the production of records and documents relevant to its work and to compel the attendance and testimony of witnesses before it. (Rev. Ord. 1961 (Sup. 1971) c. 15 § 2; CBC 1975 Ord. T7 § 50; Ord. 1977 c. 3)

Cross-reference:

G.L. Ch. 111 S 31C; Ord. ss 2-7.1; Ord. ss 12-1.1

7-3 BAY VILLAGE HISTORIC DISTRICT.

7-3.1 Bay Village Historic District.

The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of

the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the City of Boston that are located in the area known as Bay Village, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

There is hereby established an Historic District to be known as the Bay Village Historic District under the provisions of the Historic District Act, General Laws, Chapter 40C and Chapter 772, Acts of 1975, the boundaries of which are as shown on the map entitled "Bay Village Historic District," dated Fall, 1979, which accompanies and is hereby declared to be part of the ordinance.
(Ord. 1983 c. 18)

7-3.2 Definitions.

As used in this ordinance, the following words shall have the following meanings:

Building Commissioner shall mean Commissioner of Inspectional Services of the City of Boston or his assignee.

Commission shall mean the Bay Village Historic District Commission.

Exterior Architectural Feature shall mean the architectural style and general arrangement of such portion of the exterior of a structure as is designed to be open to view from a public way, including all elevations intended to be seen on freestanding buildings, and kind, color and texture of the building material of such portion and type of all windows, doors, lights, signs, and other fixtures appurtenant to such portion except those exempted from review in accordance with Chapter 40C of the General Laws and this ordinance.

Sign shall mean a sign, marquee, awning or other exterior feature protruding from any structure.

Structure shall mean a combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or the like. The word "structure" shall be construed,

where the context allows, as though followed by the words "or part thereof".
(Ord 1983 c. 18)

7-3.3 Bay Village Historic District Commission.

There is hereby established an Historic District Commission, under the provisions of the General Laws, Chapter 40C, and Chapter 772, Acts of 1975, consisting of five (5) members and three (3) alternate members to be appointed by the Mayor and confirmed by the City Council. When the Commission is first established, one member shall be appointed for a term of one year, two (2) shall be appointed for a term of two (2) years and two (2) shall be appointed for a term of three (3) years. When the Commission is first established, one alternate member shall be appointed for a term of one year, one alternate member shall be appointed for a term of two (2) years and one alternate member shall be appointed for a term of three (3) years.

Successors to members and to alternate members shall be appointed for a term of three (3) years, except that members and alternate members may be appointed during a term to fill vacancies occurring on the Commission for the remaining portion of the term.

The membership of the Commission shall be comprised of one member from two (2) nominees submitted by the Society for the Preservation of New England Antiquities; one member from two (2) nominees submitted by the Boston Society of Architects; one member from two (2) nominees serving on the Boston Landmarks Commission; one member from two (2) nominees submitted by the Greater Boston Real Estate Board; one member, a resident of the Bay Village Historic District; two (2) alternate members from four (4) nominees who are residents of the Bay Village Historic District; one alternate member from two (2) nominees serving on the Boston Landmarks Commissions.

The Commission shall elect annually a Chair and Vice-Chair from its own number and a Secretary from within or without its number.

Alternates shall have all powers and duties of regular members when called to serve by the Chair or Vice-Chair of the Commission.

All members and alternates shall serve without compensation.

All members and alternates shall be residents of the City of Boston. It is preferred that the majority of membership be residents of the Historic District.

Without regard to Chapter 31 of the General Laws and under the provisions of Chapter 772, Acts of 1975, as amended, the City of Boston Environment Department shall provide the Commission with an administrative staff adequate to carry on the functions of the Commission as provided for in this ordinance.

Such staff shall be employees of the Environment Department, and notwithstanding the foregoing the Commission may contract directly for such professional and expert technical assistance as such business shall require.

For the purposes of Chapter 268A of the General Laws, every member of the Commission, and every person who shall, on a part-time and consultative basis, perform any professional services for the Commission, such as the services of architect, attorney, engineer, architectural historian, planner, environmentalist or expert in construction, finance, real estate or traffic, shall be deemed to be a special municipal employee.

The Commission shall adopt bylaws which specify the standards and criteria included in the Bay Village Historic District Study Report. Amendments to criteria may be established by amendments to the bylaws of the Commission.
(Ord. 1983 c. 18)

7-3.4 Administration of Historic Districts.

No building, or property, or structure within the Historic District shall be constructed, demolished, moved or altered in any way that affects exterior architectural features, and no building shall be moved into the Historic District unless the Commission shall first have issued a Certificate of Appropriateness, a Certificate of Hardship or a Certificate of Non-Applicability with respect to such construction, demolition, alteration or movement. The Building Commissioner shall not issue a permit within an Historic District unless one of the certificates noted above has first been issued by the Commission or the

proposed improvement is exempted from these provisions by subsection 7-3.5.
(Ord. 1983 c. 18) Penalty, see subsection 7-3.8

7-3.5 Exemptions to Review.

The Authority of the Commission is not extended to the review of the following:

a. Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify in the standards and criteria.

b. Decorative lighting fixtures within entryways.

c. Paint or stain of any color not on any masonry or brick surface.

d. Ordinary maintenance or repair of an exterior architectural feature which involves no change in design, material or outward appearance thereof.

e. Construction, reconstruction, alteration or demolition of any such feature which the Building Commissioner shall certify is required by the public safety because of an unsafe or dangerous condition.

f. Rear elevations except on freestanding buildings.

g. The Boston Redevelopment Authority shall administer the development of Urban Renewal Parcel R-7 in accordance with the September, 1980, Developers Kit (The Guidelines) for this parcel, whose guidelines are incorporated herein by reference. This exemption shall terminate upon completion of development, and the completed building and associated property shall then be subject to Commission jurisdiction in all respects.
(Ord. 1983 c. 18)

7-3.6 Applications for Certificates from Historic District Commission.

Any person who is required to obtain a certificate from the Commission shall file with the Commission, an application for a Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship, as the case may be, in such

form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including, in the case of demolition or removal, a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

Within eight (8) days after the filing for a Certificate of Appropriateness, Saturdays, Sundays and legal holidays excluded, the Commission shall determine the properties materially affected by the application. Unless a public hearing on such application is waived in writing by all persons entitled to a notice, the Commission shall require its secretary to give, by mail, reasonable notice of a public hearing before the Commission on such application to the applicant, the owners of all property determined by the Commission to be materially affected as they appear on the most recent real estate tax list, and any persons filing a written request for notice of hearings, such requests to be renewed yearly in December.

The Commission, as soon as may be convenient following such public hearing, or the waiver thereof, but within thirty (30) days, Saturdays, Sundays and legal holidays excluded, after the filing of the application for the Certificate of Appropriateness, or within such further time as the applicant may in writing allow, shall determine whether or not the construction, reconstruction, alteration, or demolition of the exterior architectural feature is consistent with the purpose of this ordinance and whether, notwithstanding that it may be inappropriate owing to conditions especially affecting the structure involved but not affecting the Historic Bay Village District generally, failure to issue a Certificate of Appropriateness will involve a substantial hardship to the applicant and such a certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this ordinance.

In passing upon appropriateness, the Commission shall consider, in addition to other pertinent factors as specified in the standards and criteria section of the bylaws, the historical and architectural value and significance, architectural style, general design, arrangement, texture and material of the exterior architectural feature involved and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood.

If the Commission determines that a Certificate of Appropriateness should be granted, the Secretary of the Commission shall issue to the applicant a Certificate of Appropriateness. If the Commission fails to make a determination within the time hereinafter prescribed, the Secretary of the Commission shall issue to the applicant a Certificate of Hardship. If the Commission determines that a certificate not be issued, then the Commission shall include in its records the reasons for such determination any recommendations it may have. The Secretary shall then, by mail, give notice of such determination to applicant and to every person filing a written request for such notice, enclosing with it an attested copy of the reasons and recommendations as contained in the records on the Commission.

Every person about to apply to the Building Commissioner for a permit to construct any structure in the Historic District or to reconstruct, alter or demolish any structure now or hereafter in said district shall deposit with the Secretary of the Commission his application for such permit together with such plans, specifications and other material as the Commission may from time to time prescribe. Within eight (8) days thereafter, Saturdays, Sundays, and legal holidays excluded, the Commission shall consider such application, plans, specifications and other material and determine whether any exterior architectural feature is involved. If it is so determined that no exterior architectural feature is involved, the Secretary of the Commission shall endorse on the application a Certificate of Non-Applicability and return the application, plans, specifications and other material to the applicant.

(Ord. 1983 c. 18)

7-3.7 Appeals.

Under the provisions of the General Laws, Chapter 40C, Section 12A, any applicant aggrieved by a determination of the Commission, may, within twenty (20) days after the filing of the notice of such determination or such finding with the City Clerk, appeal to the Superior Court for Suffolk County. The Court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence, or to exceed the authority of the Commission, or may remand the case for further action by the Commission, or make such other decree as justice and equity may require. The remedy provided by this section shall be exclusive; but the

parties shall have all rights of appeal and exception as in other equity cases. Costs shall not be allowed against the Commission unless it shall appear to the Court that the Commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. Costs shall not be allowed against the party appealing from such determination of the Commission unless it shall appear to the court that the appellant acted in bad faith or with malice in making the appeal to the court. (Ord. 1983 c. 18)

7-3.8 Enforcement.

Whoever, without the certificate required by and effective in accordance with this act, shall undertake any construction, reconstruction, restoration, exterior execution, exterior replacement or alteration or demolition with respect to any exterior architectural feature in Bay Village Historic District shall be punished by a fine of not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars, and whoever, after having received from the Commissioner appropriate notice to desist, shall, in violation of this act, permit any exterior architectural feature in the Historic District to continue to exist shall be punished by a fine of not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars. A separate offense shall occur every day during any portion of which any such violation shall transpire.

Upon petition of the Commission, the Superior Court for Suffolk County may restrain any construction, reconstruction, restoration, exterior replacement, alteration, or demolition in violation of this act and may order the removal in whole or in part of any exterior architectural feature permitted to exist in violation of this act and may order the removal in whole or in part of any exterior architectural feature permitted to exist in violation of this act and may order such reconstruction or restoration as may be necessary or desirable to redress any alterations or demolition undertaken in violation of this act. (Ord. 1983 c. 18)

7-3.9 Fees.

The fee that shall accompany an application for a Certificate of Appropriateness from the Bay Village Historic District Commission shall be set by ordinance.

(Ord. 1983 c. 18)

Cross-reference:

Ord. ss 18-1.5(8)

7-3.10 Other Function of Commission.

The Commission shall adopt rules and regulations for the conduct of its business, not inconsistent with Chapter 40C of the General Laws, or with the purpose of this ordinance. The Commission with approval of the Mayor and City Council may receive and accept appropriations, grants and gifts for the furthering of the purposes of this ordinance. It may establish an historic marker program, publish guides, maps and other appropriate publications to illustrate historical and architectural resources of this Historic District. The Commission may propose changes in the Bay Village Historic District boundaries and additional historic districts as it deems appropriate, subject to the General Laws, Chapter 40C and to Chapter 772, Acts of 1975, as amended.

(Ord. 1983 c.18)

7-3.11 Severability.

In case any section, paragraph or part of this ordinance be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

(Ord. 1983 c.18)

[The Commission shall notify, by mail, all property owners in the Historic District of the establishment of the District. After passage of this ordinance, and prior to establishment of the Bay Village Historic District Commission, the Boston Landmarks Commission may assume the powers and responsibilities of the Commission. Ord. 1983 Ch. 18 Section 2]

7-4 PARKS AND RECREATION DEPARTMENT.

7-4.1 Composition of Board.

There shall be in the City a Department, known as the Parks and Recreation Department, which shall be under the charge of a Board, known as the Parks and Recreation Commission, consisting of an officer, known as the Commissioner of Parks and Recreation, appointed by the Mayor for a term expiring on the first Monday of January following the next biennial municipal election at which a Mayor is elected, who shall be Chairman of the Board, one (1) Assistant Commissioner likewise appointed by the Mayor for a

term expiring on the first Monday in January following the next biennial election of which a Mayor is elected, and five (5) other officers known as Associate Commissioners of Parks and Recreation, appointed by the Mayor. As the term of any Associate Commissioner expires, his successor shall be appointed by the Mayor for a term of four (4) years. Any vacancy in the office of an Associate Commissioner shall be filled by the Mayor for the unexpired term. The Associate Commissioners shall serve without pay.

(St. 1875 c. 185; Ord. 1954 c. 2 §§ 36, 37; Ord. 1970 c. 8 § 2; Rev. Ord. 1961 (Sup. 1971) c. 19 § 1; CBC 1975 Ord. T7 § 100; Ord. 1982 c. 13 § 1; Ord. 1987 c. 2 § 1)

Cross-reference:

Ord. ss. 2-7.1

7-4.2 Powers and Duties.

The Commissioner of Parks and Recreation shall exclusively have the powers, and perform the duties, of a Department head with respect to the making of contracts and the appointment, suspension, discharge, compensation and indemnification of subordinates for the Department; but otherwise the Board shall have the powers and perform the duties from time to time conferred or imposed on Boards of Park Commissioners of cities in Massachusetts by general laws applicable to Boston and, except as aforesaid, shall also have the powers and perform the duties conferred or imposed by law on the Board of Park Commissioners and Board of Recreation in existence immediately prior to the taking effect of Chapter 2 of the Ordinances of 1954. The Board shall further have the powers and perform the duties from time to time conferred or imposed on it by law. The Deputy Commissioner and the Assistant Commissioners of the Parks and Recreation Department shall have such powers and perform such duties as are from time to time proposed upon them by law or delegated to them by the Commissioner.

(Ord. 1954 c. 2 § 38; Rev. Ord. 1961 c. 19 § 2; CBC 1975 Ord. T7 § 101; Ord. 1982 c. 13 § 2; Ord. 1987 c. 2 § 2; Ord. 1995 c. 1 § 2)

Cross-reference:

Ord. ss 11-6.1

7-4.2A Deputy Commissioner and Assistant Commissioners to the Parks and Recreation Department.

There shall be one (1) Deputy Commissioner and two (2) Assistant Commissioners under the charge of the Commissioner of the Parks and Recreation Department, respectively known as the Deputy Commissioner of the Parks and Recreation Department and the Assistant Commissioner for Internal Operations and the Assistant Commissioner for Regional Administration. The Deputy Commissioner and the Assistant Commissioners of the Parks and Recreation Department shall be appointed by the Mayor for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected. Any vacancy in the office of Deputy Commissioner or Assistant Commissioner shall be filled by the Mayor for the unexpired term.

(Ord. 1987 c. 2 § 3 [101a]; Ord. 1995 c. 1 § 1)

7-4.3 Control of Parks, Public Grounds, Baths, Beaches, Gymnasias and Convenience Stations.

The Board shall construct, improve, equip, supervise, and regulate the use of all parks, public grounds, playgrounds, baths and beaches formerly under the charge and control of the Park Commissioners, the Superintendent of Public Grounds or the Trustees of the Bath Department, or that hereafter may be placed in charge of the Parks and Recreation Department, or that may be taken by purchase or otherwise; and such other parks, playgrounds, public grounds, ways, or means for outdoor recreation as may be placed in the charge of the Department by the City, the Board of Metropolitan Park Commissioners, or the legislature, or in any other manner. The Board shall construct, improve, equip, supervise, and regulate the use of all gymnasias, bath houses, or other means for public recreation, now or hereafter provided by the City; and shall have the care, custody and control of, and shall construct, all urinals and public convenience stations upon park lands and public grounds.

(Rev. Ord. 1961 c. 19 § 3; CBC 1975 Ord. T7 § 102)

7-4.4 Control of Portions of Post Office, Dock, and Faneuil Hall Squares.

Until otherwise provided, the Parks and Recreation Commission shall improve, maintain, keep

in repair, govern and regulate the portion of Post Office Square shown as "Existing Island" on Public Works Department (Survey Division) plan No. K-558A entitled "City of Boston-Post Office Sq.-Boston Proper-May 20, 1957-George G. Hyland, Commissioner of Public Works", and also the portions of Dock and Faneuil Hall Squares lying within the circle with radius of fifteen (15') feet and area of about seven hundred seven (707) square feet shown on Public Works Department Survey Division plan No. L-8626 entitled "City of Boston-Dock Sq.-Boston Proper-June 20, 1955-George G. Hyland, Commissioner of Public Works". (Ord. 1956 c. 5; Ord. 1957 c. 5; Rev. Ord. c. 19 § 4; CBC 1975 Ord. T7 § 103)

7-4.5 Care of Flag Poles.

The Board shall care for, maintain and, when necessary, replace all flag poles now or hereafter erected, and shall erect such other flag poles as may be hereafter provided for, on the Common, Public Garden, parks, playgrounds, golf courses, cemeteries, public grounds, public squares and other public places controlled by the City, except public buildings, and shall provide the necessary flags therefor and display them thereon in accordance with Section 1-3 of these ordinances. (Ord. 1953 c. 4 § 2; Rev. Ord. 1961 c. 19 § 5; CBC 1975 Ord. T7 § 104)

7-4.6 Music.

The Board shall have the charge and control of the selection of public music to be given for parades, concerts, public celebrations and other purposes under appropriations of the City Council, and shall designate the persons to furnish the same. (Ord. 1954 c. 2 § 39; Rev. Ord. 1961 c. 19 § 6; CBC 1975 Ord. T7 § 105)

7-4.7 Trees.

The Commissioner of Parks and Recreation shall have the care and superintendence of all trees, plants and shrubs belonging to the City; shall trim all shade trees standing in the street so that they shall not interfere with public travel; shall carry out all orders of the Commissioner of Public Works made after public notice and hearing to remove trees standing in the street; shall, upon request of the officer having charge of the public lamps, trim in such manner as said officer may require any tree which interferes with

the proper lighting of a street; shall cause all statutes and ordinances for the protection of trees, shrubs and flowers in the public grounds and streets to be strictly observed; and shall be deemed to be the official having charge of shade trees within the meaning of Chapter 87 of the General Laws.

(Ord. 1954 c. 2 § 39; Ord. 1964 c. 3; Rev. Ord. 1961 (Sup. 1971) c. 19 § 7; CBC 1975 Ord. T7 § 106)

Cross-references:

G.L. c. 87; Statutes, 11 §§ 106, 158, 165, 174

7-4.8 Promulgation of Rules and Regulations, Fixing of Penalties.

The Parks and Recreation Commission shall have the powers and duties conferred or imposed by Section 5 of Chapter 45 of the General Laws on Boards of Park Commissioners of cities in Massachusetts and by Section 3 of Chapter 185 of the Acts of 1875 on the Board of Park Commissioners created by said Chapter 185 to make rules and regulations for the government and use of the parks as defined in Section 1 of said Chapter 45 of the parkways, playgrounds, streets, structures and other premises under its charge, and to fix penalties for breaches of such rules and regulations.

(Ord. 1912 c. 10 § 8; Ord. 1969 c. 3; Rev. Ord. 1961 (Sup. 1971) c. 19 § 8; CBC 1975 Ord. T7 § 107)

Cross-reference:

G.L. c. 45 §§ 1, 5; St. 1875 c. 185 § 3

7-4.9 Seats on Common and Public Garden for Use of Women and Children.

The Board shall set aside and suitably designate seats on the Common and Public Garden during the months of June, July, August and September of each year for the exclusive use of women and of children under the age of twelve (12) years.

(Rev. Ord. 1961 c. 19 § 9; CBC 1975 Ord. T7 § 108)

7-4.10 Restrictions on Park Frontages.

No building or structure or any part thereof hereafter erected or altered on land which abuts on and has an entrance into and is within a distance of one hundred (100') feet from the following: The Fens (excepting Charlesgate East and Charlesgate West from a point one hundred (100') feet north from their intersection with Commonwealth Avenue to Charles River); Riverway, including Park Drive, from Brookline Avenue to Beacon Street; Commonwealth

Avenue, from Arlington Street to a line drawn parallel to and one hundred thirty (130') feet west of Charlesgate West, and from a line parallel to and one hundred thirty-five (135') feet south of the southerly line of Mt. Hood Road, as extended across Commonwealth Avenue, to the Newton line; Jamaicaaway; Olmsted Park; Arborway; Columbia Road on the southerly side from Sumner Street to Dorchester Avenue, and from Buttonwood Street to Marine Park, and on the northerly side from Boston Street to Dorchester Avenue, and from Buttonwood Street to Marine Park, South Boston; shall be used for a livery or public stable or public garage, or for any mechanical, mercantile or manufacturing purposes, nor, excepting churches and chapels, shall the extreme height of said buildings or structures exceed seventy (70') feet from the mean grade of the edgestone or sidewalk on the front facing said parkway, exclusive of such steeples, towers, domes, cornices, parapets, balustrades, sculptured ornaments, chimneys and roofs as the Parks and Recreation Commission shall approve; and no roof on any of the aforementioned buildings shall be used for laundry or clothes-drying purposes; provided, however, that the provision restricting the extreme height of buildings to seventy (70') feet from the mean grade of the edgestone or sidewalk shall not apply to buildings or structures or any part thereof now being or hereafter erected or altered on the lot of land on Commonwealth Avenue known and numbered as 2000 Commonwealth Avenue; and provided also that as to the lot of land to the southwest corner of Commonwealth Avenue and Massachusetts Avenue the prohibition of the use of building for mercantile purposes shall apply only to so much of any building erected thereon as lies within fifty (50') feet of the southerly line of Commonwealth Avenue; and provided further, however, that the prohibition of the use of building for mercantile purposes shall not apply to the lot of land on Ipswich Street bounded by and making the northwest corner of Charlesgate West and Boylston Street; provided further, however, that the prohibition of the use of any said buildings and structures for a public garage and the restriction on the extreme height of said buildings or structures to seventy (70') feet shall not apply to the lot or land bounded by the Riverway, Francis Street, and Brookline Avenue; and provided further, however, that for a distance of one hundred (100') feet running westerly along Commonwealth Avenue from the northwesterly and southwesterly corners of Commonwealth Avenue where it intersects with Arlington Street, Berkeley Street, Clarendon Street

and Dartmouth Street and for a further distance of forty-seven (47') feet running westerly along the southerly side of Commonwealth Avenue from the line which is one hundred (100') feet westerly of the southwesterly corner of Commonwealth Avenue where it intersects with Arlington Street, for a total distance of one hundred forty-seven (147') feet from such corner, the following provisions shall apply, anything hereinbefore contained in this section to the contrary notwithstanding:

a. Buildings on the corners at the Arlington Street intersection may be built to a height not exceeding two hundred eighty-five (285') feet to the top of the parapet or cornice line and buildings on the northwesterly and southwesterly corners at the Berkeley, Clarendon and Dartmouth Street intersections may be built to a height not exceeding two hundred (200') feet to the top of the parapet or cornice line;

b. Any building or portion of a building attached to or appurtenant to a building erected or altered to a height in excess of seventy (70') feet on any of the aforementioned eight (8) corners shall be built to a height not less than fifty (50') feet;

c. Steeples, towers, domes, balustrades, sculptured ornaments, chimneys, roofs, aerials, antennae, elevator and mechanical penthouses, water tanks, monitors or other structures normally built above the roof and not devoted to human occupancy shall not be included in the computation of height of buildings for purposes of subparagraphs a. and b. above;

d. The prohibition of use for mercantile purposes hereinbefore contained in this section shall not apply so as to prohibit in an apartment or apartment hotel building such accessory uses as newsstand, barber shop, dining room and similar services provided they are entered solely from within the building and no signs advertising such accessory uses shall be visible on the exterior of such building;

e. No building or structure shall hereafter be erected or altered on any of the aforementioned eight (8) corners without prior written approval by the Boston Redevelopment Authority of the exterior design of such building or structure. The Authority's review of such exterior design shall be concerned with such matters as the exterior facade, exterior materials,

signs, the location of roof top structures described in subparagraph c. above, building mass and its placement on the site, the relation of the building to architectural characteristics of Commonwealth Avenue and the Back Bay, and adequacy of vehicular ingress and egress, if any. The purpose of this subparagraph e. is to insure that new buildings shall, without limiting the dimensions and building volume permitted herein and under applicable zoning regulations, be of outstanding architectural character and harmonious with Commonwealth Avenue and the Back Bay area. (Ord. 1923 c. 8; Ord. 1941 c.1; Ord. 1945 c. 13; Ord. 1953 c. 6 § 1; Ord. 1954 c. 2 § 80; Ord. 1961 c. 9; Ord. 1962 c. 12; Ord. 1965 c. 8; Rev. Ord. 1961 (Sup. 1971) c. 19 § 10; CBC 1975 Ord. T7 § 105; Ord. 1978 c. 10; Ord. 1984 c. 38; Ord. 1985 c. 1 § 2)

Cross-reference:

St. 1983 c. 479; Ord. ss 9-3.3

7-4.11 Permission for Construction Near Parks or Parkways.

No building or structure shall hereafter be erected or altered within a distance of one hundred (100') feet from park or parkway in the City of Boston, without permission in writing having first been obtained from the Parks and Recreation Commission, except that the foregoing shall not apply to any structure now being or hereafter erected or altered on the lot of land known and numbered as 2000 Commonwealth Avenue.

(Ord. 1954 c. 2 § 81; Rev. Ord. 1961 c. 19 § 11; CBC 1975 Ord. 71 § 110; Ord. 1985 c. 1 § 3)

7-4.12 Setback Requirements.

No building shall be erected or placed upon premises within the following distances from the following parks and parkways: Riverway, from Fenway to Huntington Avenue, twenty (20') feet; Jamaica Way, from Huntington Avenue to Perkins Street, twenty (20') feet; Jamaica Way, from Perkins Street to Prince Street, twenty-five (25') feet; Arborway, from Prince Street to Washington Street, twenty-five (25') feet; Arborway, north side, from Washington Street to Franklin Park, twenty-five (25') feet; Arborway, south side, from Washington Street to Franklin Park, ten (10') feet; Olmsted Park along the northwesterly boundary, from Chestnut Street to Francis Parkman Drive, twenty (20') feet; Park Drive

on the Riverway, from Brookline Avenue to Boston and Albany Railroad, twenty (20') feet; Park Drive on the Riverway, from Boston and Albany Railroad to Beacon Street, fifteen (15') feet; Commonwealth Avenue, from Arlington Street to Beacon Street, twenty (20') feet; the Fens, twenty (20') feet (excepting Charlesgate East from Boylston Street to the Charles River, and Charlesgate West from Boston and Albany Railroad to the Charles River, and Boylston Street, south side, from Hemenway Street to Fenway); Charlesgate East from Boylston Street to Ipswich Street, ten (10') feet; and Bolyston Street, south side, from Hemenway Street to Fenway, fifteen (15') feet; provided that steps, windows, porticos, and other usual projections appurtenant to the front wall of a building shall be allowed where there is a reserved space; that no projections in the nature of a bay window, corner bay, circular front, or octagon front, with the foundation wall sustaining the same (such foundation wall being a projection of the front wall), shall be allowed (excepting oriel windows above the first story on a street corner), unless any horizontal sections of such projections would fall within the external lines of trapezoids, the sum of whose bases upon the rear line of the aforesaid space does not exceed seven-tenths (.7) of the whole front of the building, and the base of any one of which trapezoids does not exceed eighteen (18') feet, and whose side lines make an angle of forty-five (45°) degrees with the base; and each house in a block shall be considered a separate building within the meaning of this section; provided, however, that the provisions hereof shall not apply to the lot of land on Ipswich Street bounded by and making the northwest corner of Charlesgate West and Boylston Street.

(Ord. 1949 c. 1; Ord. 1953 c. 6 § 2; Rev. Ord. 1981 c. 19 § 12; CBC 1975 Ord. T7 § 111)

7-4.13 Further Setback Requirements.

No building shall be erected or placed upon premises within twenty (20') feet from the exterior line of parks and parkways, on the Dorchesterway and Strandway, except from Preble Street to Old Harbor Street and except from P Street to Farragut Road; provided, that steps, windows, porticos and other usual projections appurtenant to the front wall of a building are to be allowed in this reserved space of twenty (20') feet, subject to the following limitations, viz.: First, that no projections of any kind (other than doorsteps and balustrades connected therewith, and

also piazzas projecting not more than eight (8') feet shall extend more than five (5') feet from the rear line of the aforesaid space; second, that no projections in the nature of a bay window, corner bay, circular front, or octagon front, with the foundation wall sustaining the same (such foundation wall being a projection of the front wall), will be allowed (excepting oriel windows above the first story on a street corner), unless any horizontal sections of such projections would fall within the external lines of trapezoids, the sum of whose bases upon the rear line of the aforesaid space does not exceed seven-tenths (.7) of the whole front of the building, and the base of any one of which trapezoids does not exceed eighteen (18') feet, and whose side lines make an angle of forty-five (45°) degrees with the base; and each house in a block shall be considered a separate building within the meaning of this limitation.

(Ord. 1939 c. 3; Ord. 1949 c. 2; Rev. Ord. 1961 c. 19 § 13; CBC 1975 Ord. T7 § 112)

Cross-reference:

St. 1938 c. 479 (Boston Building Code)

7-5 CEMETERY DIVISION.

7-5.1 Cemetery Division.

The Commissioner of Parks and Recreation shall exercise the powers and perform the duties provided by statute or ordinance to be exercised and performed by the trustees of the Cemetery Division. (Ord. 1920 c. 13; Ord. 1954 c. 2 § 40; Rev. Ord. 1961 c. 19 § 14; CBC 1975 Ord. T7 § 113; Ord. 2001 c. 2)

7-5.2 Regular Cemetery Hours.

Regular cemetery hours are hereby established as 8:00 a.m. until 4:00 p.m., and all cemeteries and burial grounds currently used for interments shall be open for interments and removals during those hours, Monday through Friday, and from 8:00 a.m. until noon on Saturday, legal holidays excepted, and at such times as the Commissioner may provide. (Ord. 1981 c. 31; Ord. 2001 c. 2)

7-5.3 Deeds for Lots; Restrictions.

a. The Commission may determine the payments to be made for cemetery lots, each burial

vault, and for perpetual care of said lots. The Commissioner after payment has been made to the Collector-Treasurer of the City of Boston, may execute and deliver to the person or persons by or for whom the payment has been made, a deed of the City conveying the exclusive right of burial of human dead in, and of placing and maintaining tombs, cenotaphs, and monuments, authorized by the Commissioner, upon the lot or subdivision described in the deed, and shall cause the deed to be recorded in the office of the Parks and Recreation Department. Every conveyance shall be subject to the following restrictions, or such other regulations and restrictions relating to said cemetery or the lots therein as shall from time to time be established by the City by ordinance.

b. Restrictions:

1. The owner shall use the lot only for the purpose stated in his deed thereof.

2. The owner shall not, for hire, deposit, or allow to be deposited in said lots the remains of any person.

3. The owner shall not, without consent of the Commissioner or designee, remove or allow to be removed, the remains of any person deposited in said lot.

4. The owner shall not, without the consent of the Commissioner, place or allow to be placed on, or remove or allow to be removed from, said lot any tomb, cenotaph, or monument, or any hedge, tree, fence, curb or other ornament.

5. The owner shall remove from the cemetery any unauthorized structure or other thing on said lot the Commissioner may so remove at the expense of the owner any such structure or other thing, or any tree, shrubs, flower, fence, curb or other ornament not removed within the time stated in a notice from the Commissioner, and the owner shall comply with all the rules and regulations of the Commissioner relating to said cemetery or lot.

6. The owner shall convey said lot only as a whole, and shall never divide said lot, and if there are two (2) or more owners, they shall designate in writing one of their number to represent the lot, and

while they neglect so to do the Commissioner may designate the one to represent the lot.

(Rev. Ord. 1961 c. 19 § 15; CBC 1975 Ord. T7 § 114; Ord. 1990 c. 2 § 1; Ord. 2001 c. 2)

7-5.4 Agreement for Perpetual Care.

The Commissioner, after payment to the Collector-Treasurer for the City, for keeping in repair any lot in any cemetery or other burial ground owned by the City, may execute and deliver to the person by or for whom the payment has been made an agreement that the City shall keep the lot, and the structures and grass thereon, in a good and neat condition forever, or during the period specified in the agreement, so far as the same can be done by the expenditure of the amount equal to four percent (4%) per year of the amount of money so paid from the time of such payment. The Commissioner shall cause all such agreements to be faithfully carried out.

(Ord. 1954 c. 2 § 41; Rev. Ord. 1961 c. 19 § 16; CBC 1975 Ord. T7 § 115; Ord. 2001 c. 2)

7-6 FREEDOM TRAIL COMMISSION.

No Ordinances Apply. See Special Statutes.
(CBC 1975 Ord. T7)

7-7 TRANSPORTATION DEPARTMENT.

Cross-reference:

Commissioner appointed under St. 7 s. 200

7-7.1 Establishment of Department.

There shall be in the City a Department, known as the Transportation Department, as provided in the charter as that term is defined in clause Fifth of Section 7 of Chapter 4 of the General Laws.

(Ord. 1960 c. 10 § 1; Ord. 1962 c. 9 §§ 4, 5, 6; Rev. Ord. 1961 (Sup. 1971) c. 24 § 1; CBC 1975 Ord. T7 § 200)

Cross-reference:

G.L. c. 4 § 7 Clause Fifth

7-7.2 Commissioner to Place Street Signs.

The Commissioner of Transportation shall place and maintain in one or more suitable,

conspicuous places, to be selected by him, on each street in the City, one or more signs showing the name of the street.

(Ord. 1962 c. 9 §§ 4, 5, 6; Rev. Ord. 1961 (Sup. 1971) c. 24 § 2; CBC 1975 Ord. T7 § 201)

Cross-reference:

Ord. ss 8-7.1; Ord. Section 11-6

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

7-7.3 Removal of Stolen Motor Vehicles.

The Transportation Commission, by any rule or regulation adopted under this section, may authorize, with such limitations, if any, as the Commission may think proper, the Police Commissioner of the City, or such sergeants or officers of higher rank in the Police Department of the City as he may from time to time designate, to remove to some convenient place, through the agency of a person or persons in the employ of the Police Department of the City, or by an independent contractor selected on the basis of competitive bids invited by advertisement in the City Record, as said Police Commissioner shall from time to time determine, any stolen or misappropriated motor vehicle when the owner of record has requested such removal. Any rule or regulation adopted under this section shall be in no way inconsistent with Chapter 263 of the Acts of 1929, as amended.

(Ord. 1973 c. 8; CBC 1975 Ord. T7 § 202)

Cross-reference:

st. 1929 c. 263; St. T11 § 25

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

7-7.4 Use of Traffic Control Signal Violation Monitoring System Devices.

(a) The City of Boston shall employ a traffic control signal violation monitoring system along any portion of any ways within its control and shall impose a penalty on the owner of a motor vehicle for failure by the operator thereof to comply with the laws, codes, regulations, ordinances, rules and/or other forms of legislation governing the traffic control signals at which a traffic control signal violation monitoring system is located.

(b) The following words shall, unless the content clearly indicates otherwise, have the following meanings:

Citation shall mean a notice upon which a police officer shall record an occurrence involving all automobile law violations by the person cited. Each citation shall be numbered consecutively and shall be in such form and such parts as determined jointly by the administrative justice of the district court department and the registrar.

Motor vehicle shall have the meaning provided in section 1 of chapter 90 of the General Laws.

Operator shall have the meaning provided in section 1 of chapter 90 of the General Laws.

Owner shall have the meaning provided in section 1 of chapter 90 of the General Laws.

Registrar shall mean the registrar of motor vehicles.

Scheduled assessment shall mean the amount of the civil assessment for a particular civil motor vehicle infraction, as established jointly by the chief justice of the district court department and the registrar. A scheduled assessment shall not exceed the maximum assessment or fine established by law for each such violation. A schedule of such assessments shall be visibly posted in each office of the registry of motor vehicles and in the clerk-magistrate's office of each district court.

Traffic control signal violation monitoring system shall mean an automated motor vehicle sensor

device installed to work in conjunction with a traffic control signal which produces two (2) or more wet-film photographs, two (2) or more digital photographs, two (2) or more microphotographs, or other recorded images of each motor vehicle at the time it is used or operated in a manner that is in violation of the traffic control signal at which the automated monitoring system is located. The photographs, microphotographs, or other recorded images must record the rear of the motor vehicle, with at least one (1) image recording the motor vehicle passing through the intersection in violation of the traffic control signal. Additionally, at least one (1) of the images must clearly identify the registration plate of the motor vehicle.

Violator shall mean a person, corporation, society, association or partnership accused of an automobile law violation.

(c) 1. No traffic control signal violation monitoring system shall be utilized in such a manner as to take a frontal view photograph of the motor vehicle that is in violation of the traffic control signal or to take a rear view photograph of the vehicle above the bottom of the rear window.

2. No photographs, microphotographs, or other recorded images taken in conformance with this act shall be discoverable in any judicial or administrative proceeding other than a proceeding held pursuant to this section; and no photographs, microphotographs, or other recorded images taken in conformance with this section shall be admissible in any judicial or administrative proceeding other than in a proceeding to adjudicate liability for such violation of this section.

3. Other than for purposes of enforcement of a violation of this section or for purposes of an owner defending a violation of this section, no private entity or individual may obtain photographs, microphotographs, or other recorded images or records taken pursuant to this section.

4. Photographic and other recorded evidence obtained through the use of automated enforcement devices deployed as a means of promoting traffic safety authorized herein within the City of Boston shall be destroyed within one (1) year of final disposition of any recorded event.

(d) 1. The parking clerk designated or appointed by the City shall supervise and coordinate the administration of traffic control signal violation monitoring systems and the delivery of the photographic materials to the Police Department.

2. After inspection of photographs, microphotographs, or other recorded images produced by a traffic control signal violation monitoring system and delivered by the parking clerk, a police officer authorized to issue citations for violations of traffic signals at the subject intersection shall issue a citation in the manner provided in sections 2 and 3 of chapter 90C of the General Laws.

3. It shall be the duty of the Police Department to deliver the citation to the registered owner or owners of any motor vehicle identified in any photographs, microphotographs, streaming video or other recorded images produced by such device as evidence of a violation pursuant to this section. Such citation shall contain but not be limited to the following information: a copy of the aforementioned recorded images showing the vehicle in violation of the traffic signal, the registration number and state of issuance of said registration number of the vehicle; the date, time and intersection location of the violation; the specific violation charged; a schedule of fines for such violation as established by the city or town; instructions for the return of the notice; and text as follows; "This notice may be returned personally, by mail, or by an agent authorized in writing. A hearing before a magistrate of the district court may be obtained upon the written request of the registered owner in writing. Failure to obey this notice within 20 days of issuance will result in the non-renewal or suspension of the license to drive and/or the certificate of registration of the registered owner."

4. In the case of a citation involving a motor vehicle registered under the laws of the Commonwealth, such citation shall be mailed within fourteen (14) days of the violation, exclusive of Sundays and holidays, to the address of the registered owner or owners as listed in the records of the registrar of motor vehicles. In the case of any motor vehicle registered under the laws of another state or country, such notice of citation shall be mailed within twenty-one (21) days of the violation, exclusive of Sundays and holidays, to the address of the registered owner or owners as listed in the records of the official

in such state or country having charge of the registration of such motor vehicle. If said address is unavailable, it shall be sufficient for the Police Department to mail the notice of citation to the official in such state or country having charge of the registration of such motor vehicle.

5. Any motor vehicle owner to whom a citation has been issued pursuant to this act may admit responsibility for such violation and pay the fine provided therein. Payment shall be made by mailing both payment and citation to the registrar at the address indicated on the citation or by appearing before the registrar during normal business hours, either personally or through a duly authorized agent. Payment by mail shall be made only by money order, credit card or check made out to the registrar. Payment of the established fine and any applicable penalties shall operate as a final disposition of the case. Payment of the fine by one motor vehicle owner shall be satisfaction of the fine as to all other motor vehicle owners of the same motor vehicle for the same violation.

6. Any owner to whom a citation has been issued may within twenty (20) days of the mailing of said citation request a hearing to contest liability, by making a signed request on the back of the citation and mailing such citation to the registrar at the address indicated on the citation, or by appearing before the registrar during regular business hours, personally or through a duly authorized agent. Upon receipt of hearing request, in accordance with section 3 of chapter 90C of the General Laws, the registrar shall notify the clerk-magistrate in the district court in judicial district in which the violation occurred of such request for a hearing. The clerk-magistrate shall send written notice of the date, time and place of said hearing by first class mail to each registered owner and the police officer who issued the citation. The hearing shall be conducted by a clerk-magistrate or justice in accordance with section 3 of chapter 90C of the General Laws. If, at the conclusion of the hearing, the violator is found responsible, the clerk-magistrate or justice shall order the violator to pay an assessment to the registrar, which shall not exceed the scheduled assessment for the infraction.

7. Any owner to whom a citation has been issued shall not be liable for a violation under the provisions of this section: (1) if the violation was necessary to allow the passage of an emergency

vehicle; (2) if the violation was necessary in order to protect the property or person of another; (3) if the violation was incurred while participating in a funeral procession; (4) if the violation was incurred during a period of time in which the motor vehicle was reported to the police department of any state, city or town as having been stolen and had not been recovered prior to the time the violation occurred; (5) if the operator of the motor vehicle was operating the motor vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or leasing company and has complied with the provisions of section 20E of chapter 90 of the General Laws; (6) if the violation was necessary to comply with any other law or regulation governing the operation of a motor vehicle at the intersection. An owner disputing a citation under this section shall, within twenty (20) days, provide the registrar with the citation with a signed request for a hearing on the back and a signed affidavit stating: (1) the reason for disputing the violation; (2) the full legal name and address of the owner of the motor vehicle; (3) the full legal name and address of the operator of the motor vehicle at the time the violation occurred; (4) the names and addresses of all witnesses supporting the owner's defense and the specifics of their knowledge; and where applicable (5) signed statements from witnesses.

8. The consequences for an owner to whom a citation has been issued who fails to pay the fine provided for in said notice in accordance with subsection (5), or fails to appear for a requested hearing in accordance with subsection (6) or (7), or fails to receive a favorable adjudication of said citation at a hearing, or fails to pay the assessment or fine imposed by the clerk-magistrate or justice in subsection (6), are as follows: upon notification of such failure to the registrar, the registrar shall notify the violator that after the expiration of thirty (30) days from the date of the mailing of notification until the fine or assessment and any applicable late fees are paid, the registrar shall not issue or renew or may suspend such owner's license to operate a motor vehicle and/or motor vehicle registration.

(e) 1. For each violation the owner or owners of a vehicle shall be fined the maximum scheduled assessment for the infraction of a red light violation.

2. All penalties may be increased by up to thirty-three and one-third percent (33⅓%) if said fine remains unpaid in excess of thirty (30) days after a citation has been issued.

3. A penalty imposed for a violation shall not be deemed a criminal conviction.

(f) The compensation paid to the manufacturer or vendor of the traffic control signal monitoring system deployed as a means of promoting traffic safety as authorized herein shall not be based upon the number of traffic citations issued or any portion or percentage of the fine generated by such citations. The compensation paid to such manufacturer or vendor of the equipment shall be based upon the value of such equipment and the services provided or rendered in support of the traffic control signal monitoring system.

(g) If any of the provisions of this section, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder thereof, or the application of such provision to persons or circumstances other than those wherein it is held invalid, shall not be affected thereby.

(Ord. 2007 c.12 §§ 1 - 7)

CITY OF BOSTON CODE - ORDINANCES

7-8 MOTOR VEHICLE MANAGEMENT BUREAU.

7-8.1 Division Established; Duties.

A Division to be known as the Motor Vehicle Management Bureau (herein referred to as MVMB) shall be established in the Property Management Department.

The MVMB shall be responsible for the acquisition by purchase or otherwise and for the assignment, maintenance and disposal for all motor vehicles owned by, or leased, loaned or otherwise provided to the City, excepting vehicles owned or leased by the Fire or Police Departments, which Police or Fire Department vehicles shall not be used except for the purposes of said Department.

(Ord. 1979 c. 33; Ord. 1996 c. 6)

Editor's Note:

Ordinance No. 1996 c. 6 which transferred the Motor Vehicle Management Bureau to the Property Management Department further provided that the Motor Vehicle Management Bureau may be further transferred to the Public Works Department at the direction of the Mayor.

7-8.2 Director, Additional Staff.

The MVMB shall be headed by a Director who shall be appointed by the Commissioner of Property Management in accordance with the provisions of Chapter 31 of the General Laws of Massachusetts.

Additional staff of the MVMB shall be appointed in accordance with M.G.L. Chapter 31 in like manner by the Commissioner of Property Management when the Commissioner of Property Management deems the workload warrants such additional personnel.

(Ord. 1979 c. 33; Ord. 1996 c. 6)

7-8.3 Requests.

All Department requests for new vehicles or allocation or assignment of existing vehicles or optional equipment for such vehicles shall be received by the Director of the MVMB and either approved or disapproved by said Director.

(Ord. 1979 c. 33)

7-8.4 Motor Vehicle List.

The Director annually as of April 1 shall compile a list of all said City motor vehicles owned, leased or otherwise used by the City denoting the Department to which assigned, the vehicle's make, model, engine size, optional equipment, registration, and the individual assigned to the vehicle. Said list shall be kept on file at the MVMB and be open for public inspection during the regular business hours, and a copy thereof shall be forwarded to the City Council on or before the following April 15.

(Ord. 1979 c. 33)

7-8.5 Off Duty Use.

No such City-owned, leased, or otherwise used vehicles shall be assigned or allowed to be used by any employee when such person is off duty or not on authorized commutation. Persons authorized to use vehicles for commutation shall be recommended by respective Department Heads who shall certify in writing, giving specific reasons, why said Department Head finds the use of such vehicles for commutation purposes to be in the City's and public's interest.

(Ord. 1979 c. 33)

7-8.6 Garaging of Vehicles.

Except by specific written authorization of the Director, no vehicle is to be garaged outside of the City on a regular basis.

(Ord. 1979 c. 33)

7-8.7 Rules and Regulations.

In order to implement this ordinance the Director shall be empowered and directed to make and publish rules and regulations consistent herewith.

(Ord. 1979 c. 33)

7-8.8 Credit Card Use.

No City Agency or Office shall be authorized to use credit cards for purchase of fuel or automotive supplies and services for said vehicles unless expressly so authorized by ordinance.

(Ord. 1979 c. 33)

7-9 ANIMAL CONTROL COMMISSION.**7-9.1 Commissioner; Appointment, Term, Compensation, Etc.**

There shall be in the City a Commission, known as the Animal Control Commission, consisting of the Commissioner of Health and Hospitals, the Police Commissioner, and the Commissioner of Parks and Recreation, or their respective designees, the Dog Officer or the President of the Domestic Charitable Corporation from time to time performing by contract the duties of Dog Officer in accordance with Section 151 of Chapter 140 of the General Laws, or the designee of such Dog Officer or of the president of such corporation, and nine (9) persons appointed by the Mayor from the public at large each for a term expiring on the first Monday of the January following the next biennial election at which a Mayor is elected. At least one of the persons so appointed by the Mayor shall be a registered veterinarian authorized to practice veterinary medicine in the Commonwealth of Massachusetts. Any vacancy in the office of a member of the Commission shall be filled by the Mayor for the unexpired term. Members of the Commission shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. Members of the Commission are hereby classified as special municipal employees for the purposes of Chapter 268A of the General Laws.

The Mayor shall from time to time designate one of the members of the Commission as Chairman. The Commission shall elect a Vice-Chairman by majority vote. The Mayor shall designate a full-time executive secretary of the Commission. Subject to the availability of an appropriation therefor, the Commission may appoint such additional officers, agents, or servants as may be necessary to enable it to perform its duties.

(Ord. 1972 c. 16 § 1; CBC 1975 Ord. T7 § 300)

Cross-reference:

*Ord. ss 2-7.1; Ord. ss 5-5.6; Ord. ss 14-5.1;
G.L. c. 140 § 151; G.L. c. 268A.*

7-9.2 Powers and Duties of Commission.

The Animal Control Commission shall meet at least once each month; shall coordinate to the fullest extent possible the work of all public and private agencies concerned with animal care, protection, and control; shall effect an ongoing dialogue and exchange of views between and among such agencies; may conduct either independently or in conjunction with any appropriate person or agency, public or private, such educational programs relating to animal control as it shall deem necessary or desirable; shall collect and publish statistics relating to the animal population of the City; shall determine the City's needs in connection with animal control; shall prepare and may from time to time amend a long-range plan to meet such needs; shall prepare estimates of the cost of executing such plan and the several component measures thereof; shall recommend to the appropriate boards and officers of the City such actions as may be necessary for the implementation of such plan; and shall monitor the carrying out of such actions.

(Ord. 1972 c. 16 § 2; CBC 1975 Ord. T7 § 301)

7-9.3 Animal Spay and Neuter Clinic.

The Animal Control Commission shall establish and maintain a clinic in the City at one or more locations for the purpose of offering to residents the services commonly called spaying and neutering of animals, and which shall be known as the Boston Animal Spay and Neuter Clinic. The clinic shall be under the charge of a Director, who shall be a registered veterinarian authorized to practice veterinary medicine in the Commonwealth of Massachusetts. Fees for the services of the clinic shall be fixed by ordinance. Any person seeking such service shall in writing certify his ownership of the animal, shall in writing agree to hold harmless the Director and employees of the clinic, and the City for any death of or injury to such animal. Any dog not licensed shall be licensed prior to being retrieved by its owner. Any animal not retrieved by its owner may be disposed of by the Director in accordance with the provisions of Section 151A of Chapter 140 of the General Laws except by use of firearms.

(Ord. 1975 c. 16; CBC 1975 Ord. T7 § 302)

**7-10 ESTABLISHING FOR A LIMITED TIME
A SPECIAL COMMISSION TO BE
KNOWN AS THE ALLSTON/BRIGHTON
COMMONWEALTH AVENUE
COMMISSION.**

7-10.1 Commission Established.

There shall be within the City a Commission to be known as the Allston/Brighton Commonwealth Avenue Commission. The said Commission shall consist of the Commissioner of Traffic and Parking, the Commissioner of Parks and Recreation, that member of the City Council for the time being elected from the district which includes the greatest portion of wards twenty-one and twenty-two, and the General Manager of the Massachusetts Bay Transportation Authority, or their respective designees, all ex officio, and one (1) person appointed by the Mayor from two (2) nominees of the Brighton Historical Society, one (1) person appointed by the Mayor from two (2) nominees of the Allston Civic Association, one (1) person appointed by the Mayor from two (2) nominees of the Brighton Allston Improvement Association, one (1) person appointed by the Mayor from two (2) nominees of the South Allston Neighborhood Association, one (1) person appointed by the Mayor from two (2) nominees of the Circle/Reservoir Association, one (1) person appointed by Mayor from two (2) nominees of the Allston-Brighton Community Beautification Council, one (1) person appointed by the Mayor from two (2) nominees of the Corey Hill Neighborhood Association, one (1) person appointed by the Mayor from two (2) nominees of the Washington Heights Citizens Association, and one (1) person appointed by the Mayor from two (2) nominees of the Boston Society of Landscape Architects. Those members appointed by the Mayor shall be classified as special municipal employees for the purposes of Chapter 268 of the General Laws.
(Ord. 1986 c. 22 § 1)

**7-10.2 Organization of Commission;
Meetings.**

The said Commission shall organize and choose from among its membership a Chairman and Secretary, to serve as such at the pleasure of the Commission. Members shall serve without compensation but may be reimbursed for expenses

necessarily incurred. The Commission shall meet at least monthly, the time and place of such meetings to be set so as to maximize the ability of persons living and working in Allston and Brighton to participate in Commission deliberations.
(Ord. 1986 c. 22 § 2)

7-10.3 Duties of the Commission.

The said Commission shall make investigations, inquiries and studies relative to the preservation and improvement of that part of Commonwealth Avenue lying west of the intersection of Brighton Avenue and within the City, including amenities pertaining to the buildings abutting the said avenue and the first two blocks of intersecting streets. The said avenue and buildings are hereinafter referred to as the 'study area.' In their work the said Commission shall be mindful of the original plan of Frederick Law Olmsted for the avenue.
(Ord. 1986 c. 22 § 3)

7-10.4 Purpose.

The Commission shall examine sources of funding, private, public, and charitable, for improvements to the study area, and shall develop a plan for the area and a strategy for execution of the same, which may include changes in zoning, use patterns, height restrictions, traffic patterns, installation of trees, plantings, benches, historical markers, lighting fixtures and all manner of street furniture, but this listing shall not be exclusive. In so doing, the commission shall consult with, and coordinate its efforts with, all public agencies involved with planning, zoning, transportation, traffic, and similar activities within the study area.
(Ord. 1986 c. 22 § 4)

**7-10.5 Cooperation with Other
Departments; Boards and
Agencies.**

All Departments, Boards and Agencies of the City shall cooperate with the Commission in its activities. No Department, Board or Agency of the City shall take any action, except those immediately necessary to preserve the public health, safety, or order, within the study area until it has given notice thereof to the Commission and allowed reasonable time and opportunity for the Commission to comment thereupon. Action as used herein shall mean any

physical change and any so-called 'sign-off' allowing another public body to make such a change. (Ord. 1986 c. 22 § 5)

7-10.6 Annual Report.

The said Commission shall, at least annually and upon its dissolution, make a report to the Mayor and City Council with respect to its activities and the study area.

(Ord. 1986 c. 22 § 6)

7-10.7 Expiration.

This section shall expire three (3) years following the day the first of those members appointed by the Mayor shall take the required oath of office.

(Ord. 1986 c. 22 § 7)

7-11 CLEAN CITY COMMISSION.

a. There shall be within the City a Commission, to be known as the Clean City Commission, consisting of the Commissioners of the Public Works Department, Inspectional Services Department and Parks and Recreation Commission and the Office of Service Management, or their respective designees, and not less than five (5) others, each appointed by the Mayor, to represent the business community, and neighborhood, civic and park enhancement organizations located in the City of Boston.

b. The Commission shall annually elect from its membership a Chairman and a Secretary.

c. All members shall serve at the pleasure of the Mayor without compensation and shall be deemed special municipal employees.

d. The said Commission shall evaluate public and private efforts to improve the cleanliness of the City and comparable efforts in other cities, and from time to time make reports and recommendations concerning programs to combat unlawful dumping, littering, improper storage and disposal of waste, and like matters. The Commission shall operate as a separate agency of the City, but shall make reports only through the Director of Administrative Services.

The said Director shall make available to the Commission reasonable clerical assistance.

e. Subject to acceptance of the same by the Mayor and City Council, the said Commission shall have authority to expend gifts, grants, and grants in aid for the purposes given.

(Ord. 1987 c. 3 § 1)

7-12 ENVIRONMENTAL ORDINANCE ENFORCEMENT COMMISSION.

a. There shall be within the City a Commission, to be known as the Environmental Ordinance Enforcement Commission which shall consist of the Commissioners of the Public Works Department, Inspectional Services Department, Parks and Recreation Commission, Police Department, the Real Property Commission, and the Office of Service Management, or their respective designees, ex officio, and, a representative of the Office of Neighborhood Services appointed by the Mayor to serve at his pleasure.

b. Members shall serve without compensation and shall be deemed special municipal employees.

c. The Commission shall concern itself with the enforcement of ordinances, rules and regulations which have been designated for enforcement under the provisions of section 21D of Chapter 40 of the General Laws of the Commonwealth, and shall study the enforcement of other ordinances, rules and regulations of the City which are liable for designation for alternative non-criminal enforcement. The Commission shall exist as a separate budgetary unit of the City, attached to the Office of Neighborhood Services, but shall report to the Mayor.

d. A copy of each report and study made by the Commission shall be filed with the City Clerk and transmitted by the Clerk to the City Council.

e. The Commission shall, subject to acceptance and/or appropriation by the Mayor and City Council expend such monies (including gifts, grants, and grants in aid) as are made available, for the purposes designated.

f. The Commission shall, subject to approval of the Mayor, employ a person to be known as the Director of Ordinance Enforcement, who, together with the Director's agents employees and designees, and together with all others authorized in the ordinances, shall have authority to enforce all of the Environmental Ordinances of the City under the provisions of said Section 21D, or by criminal complaint. Such of these persons as the Police Commissioner shall appoint as Special Police Officers shall have, in addition, authority to enforce all violations authorized by the said Police Commissioner.

g. Any such person doing the same or similar work in another Department or Agency who is transferred to the Commission shall retain all benefits, seniority, sick leave, vacation leave, and the like, as if their service were continuous in the prior department of agency.
(Ord. 1987 c. 3 § 2)

7-13 RECYCLING PROGRAM.

7-13.1 Recycling Program Established.

Pursuant to G.L. C. 40, S 8H, there is hereby established in the City of Boston a recycling program the requirements of which are set forth herein.
(Ord. 1990 c. 9 § 1)

7-13.2 Purposes.

The purpose of the recycling program is to define goals and mechanisms for maximizing the percentage of Boston's residential solid waste which is recycled. The program will further seek to facilitate greater recycling levels within the commercial sector, and identify ways in which the City's purchasing policies can encourage recycling.
(Ord. 1990 c. 9 § 2)

7-13.3 Definitions.

When used in this section, unless the context otherwise requires, the following terms shall have the following meanings:

a. *Aluminum* shall mean any can, container, foil wrapping or product composed solely of aluminum.

b. *City* shall mean the City of Boston.

c. *Commissioner* shall mean the Commissioner of the Public Works Department of the City of Boston or that person's designee.

d. *Department* shall mean the Public Works Department of the City of Boston.

e. *District* shall mean waste collection districts as defined by the Commissioner.

f. *Glass container* shall mean any bottle, jar, or other container composed of glass, but not including containers composed of ceramic.

g. *Materials recovery facility* shall mean a processing plant that receives as input a stream of recyclable material separated from municipal solid waste.

h. *Metal can* shall mean any container composed of metal, including, but not limited to, any such container commonly used for beverages and food.

i. *Paper* shall mean any non-soiled paper, including, but not limited to, newspaper, mixed paper, and corrugated cardboard.

j. *Plastic container* shall mean any bottle, carton, lid or tube composed of rigid plastic.

k. *Recyclables* shall mean materials that have the potential to be recycled and which are not commingled with solid waste or contaminated by significant amounts of toxic substances, including but not limited to aluminum, glass containers, metal containers, paper, plastic containers and yard waste.

l. *Recycling* shall mean to recover materials or by-products:

1. Which are to be reused; or
2. Which are to be employed as an ingredient or a feedstock in an industrial or manufacturing process to make a product; or
3. Which are to be employed in a particular function or application as an effective

substitute for a commercial product or commodity (other than as a substitute for fuel). "Recycle" does not mean to recover energy from the combustion of a material.

m. *Residential owner* shall mean a person who owns or is in control of residential premises.

n. *Residential premises* shall mean any house, building or other structure used for dwelling purposes which receives waste collection service from the City.

o. *Residential wastestream* shall mean all solid waste which the City is responsible for collecting from residential premises.

p. *Set out container* shall mean any container composed of weatherproof material such as plastic or metal as defined by the Commissioner.

q. *Solid waste* shall mean garbage, refuse or other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from residential or commercial activities.

r. *Yard waste* shall mean grass, leaves, tree and brush cuttings and similar material.
(Ord. 1990 c. 9 § 3)

7-13.4 Recycling Mechanisms.

a. On a schedule to be determined by the Commissioner, residential premises designated by the Commissioner shall be separate specified recyclables from all other solid waste that they deposit at the curb or other pickup locations for collection and shall place said recyclables in set-out containers for collection. The Department shall arrange for the collection of all said recyclables either through requirements of the regular district waste collection contract or through such other arrangements as the Commissioner determines to be most advantageous to the City.

b. The Commissioner shall develop and implement alternative recycling programs for residential premises where, in the judgment of the Commissioner, a curbside collection program is not feasible for either a specified geographic area or for specific classes of residences.

c. The Commissioner shall develop public education programs to maximize the separation and collection of recyclables. The Department may implement these programs in conjunction with the Boston Public Schools, Neighborhood Councils, community groups, private schools, businesses, labor organizations, and other interested or affected parties. The education programs may include flyers, print and electronic media, public events, or any other promotional techniques which the Commissioner determines will assure the greatest level of compliance with the provisions of this section. Such programs shall begin at least one (1) month before the effective date of separation requirements for specified residential premises, or a month before the start of operation of any alternative programs.

d. The Commissioner may adopt rules and regulations to further the effective implementation of recycling programs.

e. The Commissioner shall determine the most cost effective and appropriate means to bring about the construction and operation of a materials recovery facility or other similar facility to ensure adequate capacity for processing recyclables collected by the Department and its contractors under this section. The Commissioner shall report the initial findings of this evaluation to the Mayor not later than July 1, 1991; and shall at that time seek whatever authority may be necessary to authorize the procurement and/or construction of such facility. The commissioner may from time to time conduct additional evaluations of this nature in light of changing market conditions and shall report in a timely manner to the Mayor the results of such evaluations.

f. The Commissioner shall ensure that all separation and collection programs and all contracts for separation, collection, and disposal are consistent with all state and federal solid waste laws and regulations, including but not limited to, 310 CMR 19:017: "Waste Control".

g. The Citywide targets as defined throughout this section shall describe the total amount of recycling of the residential wastestream occurring within the City at the relevant point in time. This shall include the results obtained through recycling of returnable plastic, glass, and metal containers which are returned

for deposit. The Commissioner shall prepare by July 1, 1991 a standard methodology consistent with that of the Commonwealth of Massachusetts Department of Environmental Protection for quantifying the recycling results for returnable containers, and shall utilize that methodology annually in the preparation of reports required by this section on the results of the recycling program.

(Ord. 1990 c. 9 § 4)

7-13.5 Recycling Targets and Contracts.

a. Through the mechanisms described above, the Department shall ensure that at least twenty-eight (28%) percent by weight of the residential wastestream is recycled citywide during the fiscal year beginning July 1, 1992; at least thirty-eight (38%) percent during the fiscal year beginning July 1, 1995; and at least fifty (50%) percent during the fiscal year beginning July 1, 1998; assuming that the Department is able to secure access to a State funded or private materials recovery facility or facility or facilities with equivalent capabilities by the applicable date. At a minimum, the Department shall institute various separation and collection programs geographically located in each of its districts to recycle aluminum, newspaper, plastic containers, metal cans, glass containers, and yard waste in order to meet the first citywide target. The Department shall implement such programs with the goal of maximizing participation and the percentage of the wastestream by weight that is recycled within each district. In areas where participation and diversion rates are lower than the citywide rates, the Department shall focus extra resources to develop alternative educational and collection approaches in order to attempt to bring such rates up to the citywide rates. In order to meet the later targets, the Department may add additional recyclables as the Commissioner determines their recycling to be feasible.

b. If, after diligent effort to secure access to a materials recovery facility or similar facility or facilities providing the required recycling capacity, said capacity remains unavailable as of the first of the above target dates, the Commissioner shall notify the Mayor of the lack of capacity. Upon such notification, the Department shall nevertheless ensure that at least twenty (20%) percent by weight of the residential wastestream is recycled citywide during the fiscal year beginning July 1, 1992. The Department shall

continue its efforts to secure access to the required recycling capacity as described above; if it remains unavailable, upon notification to the Mayor, the Department shall nevertheless ensure that at least twenty-five (25%) percent by weight of the residential wastestream is recycled during the fiscal year beginning July 1, 1995; and thirty-five (36%) percent during the fiscal year beginning July 1, 1998. If, at any time between these dates, access is secured to the required recycling capacity, the higher target specified in paragraph a. shall apply.

c. The Commissioner is hereby authorized, in conformity with all applicable laws, to seek requests for proposals, and to advertise for, award, and supervise contracts in such a way as to further the effectiveness of the Recycling Program. In carrying out said powers and duties, the Commissioner shall consider taking and is authorized to take the following actions:

1. Preparing a model request for proposals and issue contracts pursuant to this section which shall mandate that any company contracted to collect the City's solid waste shall recycle a specified percentage of waste which the Commissioner determines is necessary to meet the targets defined in paragraph a. or paragraph b., if applicable. The Commissioner may set lower targets for a contractor in cases where the Department has instituted other recycling programs in that contractor's district;

2. Including in the model request for proposals monetary or other incentives for exceeding the percentage of solid waste that a contract guarantees shall be recycled and monetary or other penalties for failing to meet the percentage of solid waste that a contract guarantees shall be recycled;

3. Electing, for a district where the Department has instituted special arrangements to recycle one (1) or more materials which effectively remove those materials from the waste being handled by the district waste collection contractor, to reduce the recycling percentage requirement for that contract by an amount not to exceed a reasonable projection of the diversion percentage to be attained by the special arrangements. Such percentage shall be based either on actual results obtained in a previous year or on a specifically documented calculation of projected results which shall specify the assumed percentage of

the overall wastestream, the participation rate, and the actual materials capture rate. The Department shall maintain a database of total waste quantities and amounts diverted by recycling programs in order to support the above calculations when they are necessary;

4. Not extending a contract or making a new contract for solid waste collection beyond July 1, 1992 unless the extension includes the applicable provisions of subparagraphs 1. through 3. herein;

5. Including in such contracts and extensions as described herein provisions which allow the Commissioner to terminate the contract with, withhold payment to, or reduce the payment to a company if said company fails to satisfy the provisions of that contract regarding recycling requirements. The Commissioner may establish a rate of monetary or other incentive or penalty based on the amount above or below the recycling percentage guaranteed by a contract;

6. Prohibiting any company found by a court or agency with jurisdiction to be in violation of the environmental protection provisions of any Massachusetts law from contracting with the City for collection or removal of solid waste or recyclables for a period of up to three (3) years following the finding. (Ord. 1990 c. 9 § 5)

7-13.6 Enforcement and Incentives.

a. No residential owner who participates in the City's recycling program shall place nonrecyclable materials in set out containers. The City may discontinue its pick up of any such owner's recyclables following two (2) written warnings. When a residential owner demonstrates compliance with this section to the Commissioner by placing recyclable materials in set out containers, the City shall resume collection of said owner's recyclables.

b. The Commissioner may develop alternative enforcement actions where, in the judgment of the Commissioner, such action is appropriate.

c. The Commissioner may create an incentive program for participation in the recycling program,

including but not limited to a "recycling lottery", in which individuals or neighborhoods as defined by the Commissioner are awarded cash prizes or other awards for correctly separating solid waste in accordance with the recycling program's needs as defined by the Commissioner.

(Ord. 1990 c. 9 § 6)

7-13.7 Reporting Requirements.

a. The Commissioner shall prepare an analysis of the recycling program including but not limited to rates of participation and volume and weight of the components of the waste stream successfully recycled, and the net cost of the City's solid waste management system. The Commissioner shall prepare by July 1, 1991 a methodology for calculating and presenting the City's net cost of its solid waste management. Such analysis shall be reported to the Mayor within two (2) months after the end of each fiscal year, once the citywide recycling program has begun. Such reports shall list the actual percentage of recycling attained for each district for the past year, including contractor performance as measured against the targets established pursuant to subsection 7-13.5c,1. above, the results of any alternative programs, and the City's net cost for its solid waste management system, as well as projections of each of these items for the coming year.

b. The Commissioner shall prepare proposals for increasing participation in the recycling program and shall include an analysis of the merits of user fees, mandatory participation and sanctions. (Ord. 1990 c. 9 § 7)

7-13.8 Commercial Recycling.

The Director of the Environment Department shall, within six (6) months of the effective date of this section, adopt and implement regulations to ensure a substantial increase in the quantity of office waste paper recycled in Boston. The Director shall also research the feasibility of expanding this program to other recyclable materials and make recommendations as necessary to the Mayor. (Ord. 1990 c. 9 § 8)

7-13.8.1 Commercial Recycling Requirements for Waste Haulers.

7-13.8.2 Purpose.

It is the intent of this section to maintain and expand Boston's recycling initiative by ensuring that all businesses have access to recycling programs. Requiring haulers to offer recycling to commercial businesses will increase accountability for solid waste disposal. This will result in increased compliance with the Massachusetts Waste Ban by haulers and businesses and a reduction of unnecessary disposal of usable raw materials.
(Ord. 2008 c. 14)

7-13.8.3 Definitions.

When used in this section only, unless a contrary intention clearly appears, the following terms shall have the following meanings:

Commissioner means the Commissioner of Public Works of the City of Boston, or such person as said Commissioner may delegate.

Hauler means any public or private solid waste collector.

Recyclables means materials that are restricted from disposal and transfer for disposal at solid waste facilities in Massachusetts pursuant to 310 CMR 19.017. These Waste Ban items include: leaf and yard waste, tires, white goods, metal, glass and plastic containers, paper and cathode ray tubes, asphalt pavement, brick, concrete, metal, wood.
(Ord. 2008 c. 14)

7-13.8.4 Permitted Haulers to Comply.

As a precondition to receiving a permit from the Commissioner pursuant to CBC 23-1, all haulers shall offer all commercial solid waste customers the services of collecting and properly disposing of recyclables. The Commissioner shall require all haulers to sign an affidavit certifying that they are in compliance with this section as a condition of said permitting application process.
(Ord. 2008 c. 14)

7-13.8.5 Alternative Procedure.

If any hauler affected by this section is unable to offer recycling services to all commercial customers, said hauler may, in the alternative, petition the Commissioner to approve an alternative procedure for offering recyclable services. The Commissioner shall have the discretion to grant a permit pursuant to CBC 23-1 upon determining that the hauler is unable to comply with subsection 7-13.8.4 and said hauler has established an adequate alternate recycling service procedure, including but not limited to, establishing a partnership with another hauler to offer recycling services to commercial customers.
(Ord. 2008 c. 14)

7-13.8.6 Education.

a. All haulers affected by this section shall provide its commercial customers with informational materials detailing its recycling services and educational materials regarding recycling.

b. Upon filing for an initial or renewal hauler permit, all haulers affected by this section shall provide the Commissioner with an annual report that contains the following information for the preceding fiscal year: (i) the total number of commercial customers; (ii) the number and total percentage of commercial customers that utilize the hauler's recycling service; (iii) the total amount of solid waste tonnage collected and the total amount of recyclables collected; and (iv) a description of its customer education materials related to recycling services.
(Ord. 2008 c. 14)

7-13.8.7 Enforcement.

The Commissioner shall enforce the provisions of this chapter and shall have the authority to issue regulations for the purpose of enforcement.
(Ord. 2008 c. 14)

7-13.8.8 Penalties.

Failure to offer recycling services under CBC 7-13.8.5, failure to obtain alternate procedure approval from the Commissioner under CBC 7-13.8.5, or failure to comply with the education requirements in CBC 7-13.8.6 shall result in a one hundred fifty (\$150.00)

dollar fine for the first violation, three hundred (\$300.00) dollar for the second violation, and on a third violation the hauler's permit will be revoked by the Commissioner. A hauler may appeal to the Commissioner to have the permit re-issued and the Commissioner shall re-issue said permit once the hauler provides sufficient proof that it is in compliance with the provisions of this section. Nothing in this section shall interfere with the Commissioner's authority to suspend or revoke a permit for any other reason allowed by law.

(Ord. 2008 c. 14)

7-13.8.9 Severability.

If any provision of these sections or the application of these sections to any person or circumstance shall be held invalid by a court of competent jurisdiction, the validity of the remainder of these sections and the applicability of such sections to other persons or circumstance shall not be affected thereby.

(Ord. 2008 c. 14)

7-13.8.10 Implementation.

The provisions of these sections shall be effective March 1, 2009.

(Ord. 2008 c. 14)

7-13.9 Purchasing Policy.

The City Purchasing Agent shall, within six (6) months of effective date of this section research the feasibility of revising procurement specifications in

order to establish a preference for those products containing recycled materials, wherever feasible, and shall recommend appropriate purchasing policy amendments to the Mayor.
(Ord. 1990 c. 9 § 9)

7-13.10 Fiscal Constraints.

Nothing in this ordinance shall be construed to require the City to increase its net costs incurred for solid waste management.
(Ord. 1990 c. 9 § 10)

7-13.11 Severability.

If any provisions of this section shall be held to be invalid by a court of competent jurisdiction, then such provision or subsection shall be considered separately and apart from the remaining provisions or subsections of this section, which shall remain in full force and effect.
(Ord. 1990 c. 9 § 11)

7-13A ACCESS TO RECYCLING PROGRAMS AND SERVICES — LARGE RESIDENTIAL BUILDINGS WITH MORE THAN SIX (6) UNITS.

7-13A.1 Purpose.

These sections supplement the recycling program established in subsection 7-13.1 *et seq.* and pursuant to G.L. c. 40, § 8H by expanding the residential recycling program to include access for the residents of large residential buildings. Large residential buildings have been designated by the Commissioner as residential buildings with more than six (6) units.
(Ord. 2002 c. 1)

7-13A.2 Definitions.

Unless specifically indicated otherwise, the definitions contained in subsection 7-13.3 shall apply and control in these sections.

a. *Large residential building* shall mean a residential building with more than six (6) units.

b. *Owner* shall mean a person who owns or is in control of a large residential building.

c. *Recycling cart* shall mean any container ranging in size from thirty (30) to ninety (90) gallons that is composed of weatherproof material such as plastic or metal and that is clearly marked and/or identifiable as a container for recyclables; the Department commonly refers to certain recycling carts in widespread use throughout the City as "toters." Recycling carts shall be used only for the containment and collection of recyclables. Recycling carts are hereby specifically exempted from the fee and application provisions of section 23-2 and section 23-11.

d. *Recycling Coordinator* shall mean that person holding the position, or its equivalent, of Large Apartment Building Recycling Coordinator at the Department.

e. *Recycling guide* shall mean that publication in its most current form, or its equivalent, published by the Department pursuant to subsection 7-13A.5.

f. *Resident* shall mean a lawful inhabitant of a large residential building.

g. *Set out container* shall have the same definition as promulgated in subsection 7-13A.3(p) and is commonly referred to as "blue box."
(Ord. 2002 c. 1)

7-13A.3 Access to Recycling Programs and Services.

a. Owners shall provide to residents access to the recycling programs and services offered by the City of Boston to the extent herein required.

b. Upon the Department's or the Recycling Coordinator's receipt of a request from a resident, the Recycling Coordinator shall notify the owner of its receipt thereof. An owner, within thirty (30) days of receipt of the notice from the Recycling Coordinator, shall provide access to the recycling programs and services of the City of Boston by installing and maintaining an adequate number of recycling carts in a common area of the premises and within a reasonable proximity not to exceed three hundred fifty (350') feet from a point of egress of a large residential

building and as close as practicable to the current waste/trash removal dumpsters or containers for the large residential building; if an owner determines that the installation of recycling carts is impracticable then the owner shall contact the Recycling Coordinator for generation and/or approval to supply residents with access through alternative measures including but not limited to providing a set out container to each unit in the large residential building. If the Recycling Coordinator is unable to generate and/or approve alternative measures as aforesaid then the owner may seek an exemption pursuant to subsection 7-13A.4.

c. Nothing in this section prohibits owners from supplying residents with set out containers. (Ord. 2002 c. 1)

7-13A.4 Owners Unable to Comply; Exemption.

a. An owner may submit to the Commissioner a detailed letter requesting exemption from the requirements of these sections within thirty (30) days of the date of final determination under subsection 7-13A.3 regarding alternative measures to providing access to the recycling programs and services. Said detailed letter shall include (i) the owner's reasons for the request for exemption, (ii) the specific steps the owner has taken to evaluate the owner's large residential building and its premises regarding compliance with these sections, and (iii) the specific steps the owner has taken in an attempt to comply with the provisions of these sections. The Commissioner shall, within thirty (30) days of the receipt of the request, respond in writing to the owner by: (i) rejecting the request and directing the specific steps the owner must take to ensure compliance with these sections or (ii) approving the request. The decision of the Commissioner is final and may be appealed only to a court of competent jurisdiction.

b. Any large residential building from which the City of Boston does not collect trash is exempt from the requirements of these sections. Nothing in these sections prohibits such a large residential building from voluntarily providing access to the City of Boston's free recycling services. (Ord. 2002 c. 1)

7-13A.5 Recycling Guides.

The Department shall modify its recycling guide titled "Curbside Recycling for Boston For All Residents in Households with 1-6 Units" to reference and include large residential buildings. Each owner shall ensure that a recycling guide is posted in a clearly visible location as close as practicable to (i) the main entrance to the large residential building or (ii) to the installed recycling carts. Owners shall ensure that a recycling guide is delivered to each unit in the large residential building contemporaneously with installation of the recycling carts. An owner shall deliver a recycling guide to each resident within fourteen (14) calendar days of the onset of the resident's residency. (Ord. 2002 c. 1)

7-13A.6 Inspections, Enforcement, and Penalties.

a. The Commissioner and the Commissioner of the Inspectional Services Department and any designees thereof shall have the authority to inspect, enforce, and impose penalties under this section.

1. *Inspections.*

(a) *Authority.* In order to properly carry out its respective responsibilities under this section and to ensure that the public health, safety, and environment are protected from the hazards posed by unsanitary and unhealthy conditions, the Inspectional Services Department is authorized (i) to examine or survey at any reasonable time the premises of all large residential buildings and (ii) with prior notice to the owner or the owner's authorized representative, to enter, examine, or survey the large residential building.

(b) *Systematic Area Inspections.* The Inspectional Services Department is authorized to develop and adopt plans for systematic, periodic area-wide inspections of large residential buildings, their premises, and the recycling facilities thereon.

(c) *Interference with Inspection.*

(1) If an owner or an owner's authorized representative, having been notified pursuant to subparagraph (a), knowingly impedes,

inhibits, interferes with, restricts, or obstructs entry and free access to the large residential building or the premises where inspection is authorized by this section, the Inspectional Services Department may seek in a court of competent jurisdiction an inspection warrant that allows for the inspection of the site and apprises said owner or owner's authorized representative concerning the nature of the inspection, the scope of the inspection, the justification for the inspection, and may seek the assistance of the police authorities in presenting said warrant.

(2) If a resident or other person knowingly impedes, inhibits, interferes with, restricts, or obstructs entry and free access to the large residential building or the premises where inspection is authorized by this section, the Inspectional Services Department may seek in a court of competent jurisdiction an inspection warrant that allows for the inspection of the site and apprises said resident or other person concerning the nature of the inspection, the scope of the inspection, the justification for the inspection, and may seek the assistance of the police authorities in presenting said warrant.

(3) Nothing in these subsections authorizes the Inspectional Services Department to inspect any areas other than the indoor common areas of a large residential building or the outdoor premises of the large residential building.

2. *Violation.* Violations of this section include, but are not limited to:

(a) The failure to provide access to the recycling programs and services in accordance with subsection 7-13A.3; and

(b) The failure to post a recycling guide in accordance with subsection 7-13A.4 or to deliver a recycling guide to residents in accordance with subsection 7-13A.4; and

(c) The failure to comply with the requirements of this section; and

(d) The interference with an inspection, including inspections conducted pursuant to a validly issued inspection warrant, pursuant to subsection 7-13A.6(1)(c).

3. *Service of Notice of Violation.* Notice of violation shall be served on the owners in the following manner:

(a) Personally, by any person authorized to serve civil process; or

(b) By any person authorized to serve civil process by leaving a copy of the notice of violation at the last and usual place of abode of the violator; or

(c) By sending a copy of the notice of violation by registered or certified mail, return receipt requested, if within the Commonwealth; or

(d) If the last and usual place of abode of the owner is unknown or outside the Commonwealth, by posting a copy of the notice of violation in a conspicuous place on or about the premises and by advertising it for at least three (3) out of five (5) consecutive days in one (1) or more newspapers of general circulation within the City.

4. *Administrative Hearings.*

(a) *Right to Hearing.* Any person upon whom a notice of violation has been served may request a hearing from the Inspectional Services Department by filing a written petition requesting a hearing on the matter with the Inspectional Services Department within seven (7) days after the day the notice of violation was served.

(b) *Hearing Notice.* Upon receipt of a petition, the Inspectional Services Department shall inform the petitioner of the date, time, and place of the hearing in writing.

(c) *Time for Hearing.* The hearing shall commence within thirty (30) days after the day on which the notice of violation was served. The time period in which the cited violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held.

(d) *Hearing of Petitioner.* At the hearing, the petitioner shall be given an opportunity to be heard, to present witnesses or documentary evidence, and to show why the notice of violation

should be modified or withdrawn. An official record shall be kept of the hearing proceedings and made available to the petitioner upon request. Failure to hold a hearing within the time period specified herein shall not affect the validity of any notice of violation.

*(e) Final Decision After Hearing;
Failure to Comply with Final Order.*

(1) Within seven (7) days after the conclusion of the hearing, the Inspectional Services Department shall sustain, modify, or withdraw the notice of violation and shall inform the petitioner in writing of its decision and the reasons therefor. If the Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted in the original notice of violation or in the modification.

(2) If a written petition for a hearing is not filed with the Inspectional Services Department within seven (7) days after the notice of violation has been served or if after a hearing the notice of violation has been sustained in any part, then each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute an additional and separate violation.

5. *Judicial Appeals.* Any person aggrieved by a final decision of the Inspectional Services Department with respect to a notice of violation or any other order issued under these sections by the Inspectional Services Department, may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

6. *Penalties.*

(a) *Failure to Comply with Section.* Failure to comply with the provisions of this section shall result in the imposition of penalties by the Inspectional Services Department. For any failure to comply, the Inspectional Services Department shall have the authority to (i) issue a written notice of violation and (ii) seek an injunction from a court of competent jurisdiction instructing the owner to comply with the requirements of this section. Penalties shall be administered only in accordance with the provisions of this section.

(b) *Notice of Violation.* The Inspectional Services Department shall respond to an owner's first failure to comply by issuing a notice of violation to an owner which shall provide an owner with thirty (30) days to correct the violation.

(c) *Failure to Comply with Notice of Violation.* An owner who fails to comply with any notice of violation or other order issued pursuant to these sections by the Inspectional Services Department or its duly appointed agents or representatives shall be subject to a fine of not less than one hundred fifty dollars and no cents (\$150.00) per violation per day and not more than three hundred dollars and no cents (\$300.00) per violation per day.

(d) *Injunctive Relief.* The Commissioner of Inspectional Services may, after an administrative hearing, seek an injunction from a court of competent jurisdiction instructing an owner to comply with a notice of violation.

(e) *Interference After Inspection Warrant Presented.* An owner who refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access or neglects or fails to provide entry and free access to every part of the large residential building where inspection is sought under these sections after an inspection warrant has been obtained and presented in accordance with these sections, shall be subject to a fine not less than one hundred fifty dollars and no cents (\$150.00) and not more than three hundred dollars and no cents (\$300.00) per day.

(f) *Fines.* All fines and penalties assessed and collected under this subsection may be enforced pursuant to G.L. c. 40, section 21D.

7. *Regulatory Authority.* The Commissioner and the Commissioner of Inspectional Services shall have the authority to promulgate rules and regulations necessary to effect and enforce this section.

8. *Delegation of Authority.* The Commissioner and the Commissioner of Inspectional Services shall have the authority to delegate enforcement of this section to any City department authorized to enforce public safety, health, or environmental laws and regulations.

b. Nothing in these sections shall prevent the Commissioner from developing incentive programs directed at owners for the successful and timely implementation of actions designed to provide residents with access to the City's recycling programs and services.

(Ord. 2002 c. 1)

7-13A.7 Annual Report.

In an effort to evaluate the effectiveness of the recycling programs of the City of Boston and of large residential building in the City of Boston, the Department shall annually prepare a report regarding the City of Boston's recycling programs, including the tonnage of recycled materials collected by the Department and the tonnage of trash collected by the Department. This annual report shall specifically and separately detail the recycled tonnage collected from large residential buildings. An original of this annual report shall be filed with the Boston City Clerk and with the Boston City Council no later than March 31 of each calendar year.

(Ord. 2002 c. 1)

7-13A.8 Implementation.

The provisions of 7-13A shall be effective commencing on January 1, 2003. Nothing in this section prohibits an owner from voluntarily providing recycling access to the residents of the owner's large residential building and/or contacting the Recycling Coordinator in order to develop a site-specific recycling access strategy addressing the needs of the owner's large residential building and/or otherwise taking steps in preparation for compliance with the provisions herein. An owner that provides recycling access to the residents of the owner's large residential building that fulfills the requirements of section 7-13A prior to January 1, 2003 and maintains conforming recycling access after January 1, 2003 shall be exempted from the provisions of these sections.

(Ord. 2002 c. 1)

7-13A.9 Severability.

If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2002 c. 1)

7-14 INDOOR AIR QUALITY.

7-14.1 Indoor Air Quality Unit.

There is hereby established within the Environmental Health Office of the Department of Health and Hospitals or its successors an Indoor Air Quality Unit which is charged with monitoring the quality of air (a) in buildings to which the public has access which are not subject to monitoring by the U.S. Occupational Safety and Health Administration (OSHA) for air quality standards substantially as contemplated by its Proposed Indoor Air Quality Rule (59FR15968), (b) in all public school buildings within the City, (c) in all other buildings owned or leased by the City or any agency or instrumentality thereof (except foreclosed real estate,) and, (d) in any other structure in Boston where there is an apparent risk to health likely to be caused or aggravated by poor air quality.

(Ord. 1996 c. 10)

7-14.2 Air Quality in School Buildings.

No less than twice each year the Indoor Air Quality Unit shall inspect each school building, and, using as guidelines the then current recommendations and standards of OSHA and the Environmental Protection Agency, shall ensure that the air quality in each such building is appropriate to the maintenance of good health, with special regard to airborne pollutants in concentrations harmful to children. Each inspection shall include (a) electronic environmental air quality monitoring, (b) visual inspection, (c) review of health complaint surveys, heating, ventilation and air conditioning evaluations, building inspection records, and, (d) such other procedures as building history and inspection of similar structures suggest. In the event an inspection shall detect a situation likely to cause ill health, the Unit shall forthwith make written record thereof and report the same to the person in charge of the building, to the Superintendent of Schools, and to the School Committee. The Unit shall cooperate with City and school officials and employees to take appropriate action to cure the situation and minimize adverse effect on the public health. In the event subsequent inspection, or other facts known to the Unit, indicate a failure to act with expedience toward correction of the situation, the Unit shall give immediate report to

the Board of Health and Hospitals or its successors and to the Mayor.
(Ord. 1996 c. 10)

7-14.3 Air Quality in Other Public Buildings.

The Unit shall from time to time and when requested by the officer having charge of a City owned or occupied buildings, or any other building upon request of the owner, inspect buildings owned or leased by the City, and, using as guidelines the then current recommendation and standards of OSHA and the Environmental Protection Agency, shall ensure that the air quality in each such building is appropriate to the maintenance of good health. Each inspection shall include (a) electronic environmental air quality monitoring, (b) visual inspection, (c) review of health complaint surveys, heating, ventilation and air conditioning evaluations, building inspection records, and (d) such other procedures as building history and inspection of similar structures suggest. In the event an inspection shall detect a situation likely to cause ill health, the Unit shall forthwith make written record thereof and report the same to the person in charge of the building, and to the Mayor. The Unit shall cooperate with City officials and employees to take appropriate action to cure the situation and minimize adverse effect on the public health. In the event subsequent inspection, or other facts known to the Unit, indicates a failure to act with expedience toward correction of the situation, the Unit shall give immediate report to the Board of Health and Hospitals or its successors.
(Ord. 1996 c. 10)

7-14.4 Annual Report.

The Unit shall make annual report of its doings, including a listing of inspections made and any recommendations it may have for legislative action, to the Mayor, who shall convey a copy to the City Council and to the Board of Health and Hospitals or its successors, which Board shall maintain the same as a public record.
(Ord. 1996 c. 10)

CHAPTER VIII

DEVELOPMENT

8-1 PUBLIC FACILITIES DEPARTMENT.

Editor's Note:

Ordinance No. 1994 c. 6 transferred certain functions of the Public Facilities Department to the Real Property Department. See subsection 11-7.1b. of this Code for transferred functions.

8-1.1 Power to Designate Community Schools.

In addition to the powers conferred upon it by Chapter 642 of the Acts of 1966, the Public Facilities Commission shall have the power to designate as a Community School any schoolhouse constructed, reconstructed, or remodeled under the provisions of Section 3(c) of said Chapter 642. Such power shall be exercised before the care, custody, and control of any such schoolhouse shall have been transferred to the School Committee. The Public Facilities Commission shall also have the power, with approval of the School Committee, to designate as a Community School any schoolhouse the care, custody, and control whereof shall have been transferred to or shall rest with the School Committee, whether or not such schoolhouse was constructed, reconstructed, or remodeled under the provisions of said Section 3(c).

(Ord. 1972 c. 18; CBC 1975 Ord. T8 § 1)

Cross-reference:

St. 1966 c. 642 § 3(c); Ord. Section 19-1

8-1.2 Community School Program.

The Public Facilities Commission shall further have the power to conduct a Community School Program in any schoolhouse designated as a Community School whether or not the care, custody, and control thereof shall have been transferred to or shall rest with the School Committee, and for such purpose may exercise any power conferred upon it by Chapter 642 of the Acts of 1966. Without limitation on the generality of the foregoing the Public Facilities Commission may for the purpose of conducting a

Community School Program at any schoolhouse designated as Community School make, with the approval of the Mayor, such agreements or contracts with persons, firms, corporations, and governmental agencies, including the School Committee, as may be necessary or convenient for the carrying out of such Community School Program, and said Public Facilities Commission shall exercise its power hereunder in cooperation with the School Committee and other affected departments of the City. These departments shall include, but not be limited to, the Parks and Recreation Department, the Mayor's Office of Human Rights, the Youth Activities Commission, and the Office of Cultural Affairs.

(Ord. 1972 c. 18; CBC 1975 Ord. T8 § 2)

Cross-reference:

St. 1966 c. 642; Ord. Section 2-7; Ord. Section 7-4; Ord. Section 12-6; Ord. Section 19-1

8-1.3 Community School Councils.

The Public Facilities Commission shall establish, in conjunction with representatives designated by existing Community School Councils, guidelines for the creation and implementation of Community School Councils in each area served by a Community School. These councils are to be composed of individuals representative of the residents of the area and the users of the facilities of the school. The Public Facilities Commission shall recognize such a Community School Council and will accept and act on recommendations from such councils in matters relating to personnel, program, and budget, as well as in areas of general policy. The Public Facilities Commission shall, within thirty (30) days after the receipt of recommendations in writing from a Community School Council, notify such Community School Council as to the adoption or rejection of such recommendations, and shall inform such Community School Council of a timetable for the implementation of adopted recommendations; community involvement

in the decision-making process shall apply to every phase of the Community School Program.
(Ord. 1972 c. 18; CBC 1975 Ord. T8 § 3)

8-1.4 Maintenance and Repair Powers of School Committee.

Nothing in this ordinance shall be interpreted as abridging the exclusive power and authority of the School Committee to perform necessary alterations (as defined in Section 3 of Chapter 642 of the Acts of 1966), maintenance, and repairs of public school buildings and their yards and furnishings, nor the employment of schoolhouse custodians.
(Ord. 1972 c. 18; CBC 1975 Ord. T8 § 4)

Cross-reference:

Ord. Section 19-1

8-2 BOSTON URBAN HOMESTEAD PROGRAM.

8-2.1 Urban Homestead Program.

There shall be, within the Public Facilities Commission created by Chapter 642 of the Acts of 1966, a Committee to be known as the Boston Urban Homestead Committee, which shall consist of all the members of said Commission, the City Auditor or his designee, one member appointed by the Mayor for a term of five (5) years from two (2) nominees of the Greater Boston Real Estate Board, one member regularly employed as a mortgage-lending officer of an institution subject to the terms of Section 52 of Chapter 167 of the General Laws to be appointed by the Mayor for a period of five (5) years, the Commissioner of Real Property or his designee, and two (2) low-income residents of the City appointed by the Mayor for a term of five (5) years who neither own, directly or indirectly, or manage real property to a greater extent than three (3) housing units. The members appointed by the Mayor (except for those serving ex officio) shall be deemed to be Special Municipal Employees for the purposes of Chapter 268A of the General Laws. All members shall serve without compensation. Any vacancy shall be filled in like manner as the member vacating the appointment, for a similar term as the original appointee. The

Director of the Commission shall serve as Director of the Committee, without further compensation.
(Ord. 1973 c.13; CBC 1975 Ord. T8 § 6)

Cross-reference:

St. 1966 c. 642; G.L. c. 167 § 52; Ord. Section 6-1; Ord. Section 8-1; Ord. ss 11-7.1

8-2.2 Powers and Duties of Committee.

The said Committee shall from time to time prepare and distribute lists of City-owned residential structures, which for the purposes of this ordinance shall be determined to be buildings containing at least one (1) and not more than four (4) dwelling units, and not more than one (1) business or commercial unit. Upon application of any person who is a bona fide resident of the City of Boston, or on its own initiative, the Committee shall determine whether any such structure is suitable for rehabilitation under the Urban Homestead Program. In the event that the Committee determines the structure suitable it shall request the Commission to assume the care, custody, and control of the same from the Real Property Department and, if in the opinion of the Commission the same is not needed for municipal purposes nor likely to be used for a public purpose, the structure (and the parcel of land on which it is situated) shall be declared available for lease and sale under the provisions of the Urban Homestead Program. The said Committee shall prepare, and from time to time amend, a standard leasehold agreement to be executed for consideration of one (\$1.00) dollar by individuals taking an interest in any such structure. Every such agreement shall provide that the lessee shall reside in the demised structure for a period of not less than five (5) years from the date that the Commissioner of Housing Inspection shall certify the same to be in compliance with the State Sanitary Code as applies to residential structures and the Building Commissioner shall certify the same to be in compliance with the terms of the building code then in effect (considering any allowances the code may make for preexisting conditions or construction), whichever is later. The said agreement shall provide that, unless the Committee shall extend the time, the lessee shall do everything necessary to secure such certificates, and shall actually obtain such certificates, within eighteen (18) months of the execution of such agreement. The said agreement shall further provide that no tax or payment in lieu of tax shall be due to the City for a

period of sixty (60) months after execution, and that a payment in lieu of tax, approximately equal to one-twelfth (1/12) of the tax that would ordinarily be assessed on that building in the then-current year, shall be payable to the City as an ordinary debt of the lessee for each month over sixty (60) months that the lease is in effect, and that the City shall, at the end of the month of December following the expiration of sixty (60) months from the later of the dates of certificate, execute and deliver to the lessee for a consideration of one (\$1.00) dollar a deed conveying title in fee simple to said premises. In the event that a lessee has obtained a mortgage from an institution subject to the terms of Section 52 of Chapter 167 of the General Laws, and has used the proceeds thereof solely for the purposes of rehabilitating said premises, the City shall agree to subordinate its rights to said premises in case of default, and shall agree that in such case it will execute and deliver a deed conveying title in fee simple to such institution, provided that the said institution shall dispose of such property in like manner as foreclosed real estate and shall pay over any part of the proceeds of such disposition as shall exceed the amount remaining to be paid on account of such a mortgage, together with the actual cost of such sale, to the City of Boston. The Committee shall from time to time, with the approval of the Mayor and City Council, promulgate, amend, and repeal reasonable regulations for the conduct of the Urban Homestead Program not inconsistent with this section. The aforementioned leasehold agreement shall be in a form approved by the Mayor and City Council and shall be executed by the said Commission in the name of the City without the further approval of any Board, Officer, or of the City Council. The Committee may, without further approval, accept by gift, title to any property situated in Boston it deems suitable for the Urban Homestead Program provided the same is conveyed to it clear of any mortgage, lien, attachment, or other encumbrance which would prevent the lease or conveyance of the same, as aforesaid.

(Ord. 1973 c. 13 § 2; CBC 1975 Ord. T8 § 7)

Cross-reference:

Ord. Section 2-7; Ord. Section 2-8; Ord. Section 3-1; Ord. Section 9-1; Ord. ss 11-7.6; St. 1938 c. 479

8-2.3 Application for Lease.

The Committee shall receive from any person, except any person who has in the five (5) years next

preceding owned, directly or indirectly, any parcel of land in the City of Boston which was subject of a taking by the said City, duly recorded in the Suffolk County Registry of Deeds, by reason of nonpayment of a tax or lawful charge or assessment, applications for participation in the Urban Homestead Program. The Committee shall satisfy itself that the applicant has the ability to rehabilitate the structure which the applicant proposes to lease. In arriving at its determination, the Committee shall consider the following:

- a. The condition of the structure;
- b. The personal abilities of the applicant;
- c. Assets of the applicant;
- d. Mortgage commitments;
- e. Availability of financing.

In the event the Committee so satisfies itself, it shall declare the applicant eligible to lease the structure applied for.

(Ord. 1973 c. 13 § 3; CBC 1975 Ord. TS § 8)

8-2.4 Decisions by Committee.

In the event that only one person has made application for a particular structure, and has been found eligible to lease the same, the Committee shall execute and deliver a lease as aforesaid, and, in the event that more than one applicant has been determined to be so eligible to lease a particular building, the said Committee shall conduct a drawing by lot, open to the public, and shall execute and deliver a lease to that applicant so selected, provided however, that no lease shall be executed unless the particular property to be demised has been advertised in a newspaper of general circulation in the City at least twice, seven (7) days apart, the second advertisement to be published at least fourteen (14) days before the last date for applications to be filed.

(Ord. 1973 c. 13 § 4; CBC 1975 Ord. T8 § 9)

8-2.5 Consent of Committee.

Any lease given hereunder may be assigned with the consent of the Committee, which shall not be unreasonably withheld. The Committee may terminate

a lease or make other equitable adjustment in the case of death or disability of the lessee.

(Ord. 1973 c. 13 § 5; CBC 1975 Ord. T8 § 10)

**8-2.6 Cooperation by Committee,
Building Commissioner, and
Commissioner of Housing
Inspection.**

The Building Commissioner and the Commissioner of Housing Inspection shall offer all reasonable assistance to lessee hereunder and the Committee, which assistance, without limiting the generality of the foregoing, shall include periodic inspection of the premises, the issuance of certificates as aforesaid, technical assistance in the preparation of building permit applications, consultation on applicable law, rehabilitation procedures and technique.

(Ord. 1973 c. 13 § 6; CBC 1975 Ord. T8 § 11)

Cross-reference:

Ord. Section 9-1; St. T9 §§ 50, 56, 57

**8-2.7 Preference in Selecting Prospective
Purchasers.**

In the selection of the prospective purchasers of the buildings which are the subject of this ordinance, preference shall be given to the bona fide resident applicants of the neighborhood in which the building is situated. If there are no applicants from the neighborhood in which the building is situated, then the selecting authority may select any resident applicant of Boston as a purchaser, the selection of these prospective applicants to be subject to the approval of a local Selection Board appointed by the Mayor of the City of Boston.

(Ord. 1973 c. 13 § 7; CBC 1975 Ord. T8 § 12)

**8-2.8 Urban Homesteading Under the
Housing and Community
Development Act of 1974.**

Notwithstanding the foregoing, the Boston Redevelopment Authority and the Office of Community Development may conduct an Urban Homestead Program under the provisions of Section 810 of the Housing and Community Development Act of 1974 provided that such program is conducted consistent with an order adopted by the City Council on February 9, 1976, and provided further that selection of applicants is done in a manner consistent

with both that order and subsections 8-2.4, 8-2.5, 8-2.6 and 8-2.8 hereof, except that the duties that would pertain to the Committee shall be exercised by the Office of Community Development.

The said Office of Community Development shall from time to time, subject to the approval of the Mayor and City Council, promulgate, amend, and repeal reasonable regulations not inconsistent with this section.

(Ord. 1976 c. 2)

**8-3 BOSTON REDEVELOPMENT
AUTHORITY.**

No Ordinances Apply. See Special Statutes.
(CBC 1975 Ord. T8 c. 3)

**8-4 ECONOMIC DEVELOPMENT AND
INDUSTRIAL CORPORATION.**

No Ordinances Apply. See Special Statutes.
(CBC 1975 Ord. T8 c. 5)

**8-5 DEVELOPMENT AND INDUSTRIAL
COMMISSION.**

8-5.1 Composition of Board.

There shall be in the City a Board, known as the Development and Industrial Commission, consisting of fifteen (15) Commissioners appointed by the Mayor. The Development and Industrial Commissioners shall serve for a term of five (5) years. As the term of any Commissioner expires, his successor shall be appointed by the Mayor for a term of five (5) years. Any vacancy in the office of a Commissioner shall be filled by the Mayor for the unexpired term.

The Mayor shall from time to time designate one of the Commissioners as Chairman and the other as Vice-Chairman. The Commission shall elect a Secretary who need not be a Commissioner.

The Commissioners shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. The Commissioners shall be deemed to be special

municipal employees for the purposes of Chapter 268A of the General Laws.

(Ord. 1969 c. 2; Rev. Ord. 1961 (Sup. 1971) c. 10B § 1; CBC 1975 Ord. T8 § 300)

Cross-reference:

G.L. c. 268A; Ord. Section 2-7

8-5.2 Executive Director; Employees.

The Mayor may, upon nomination of the Development and Industrial Commission, appoint an Executive Director for such Commission, who shall serve at the pleasure of the Mayor and receive such compensation for his services as the Commission, with the approval of the Mayor, shall from time to time determine. The Commission may employ such other experts, assistants and employees as the Commission may think necessary or expedient.

(Rev. Ord. 1961 (Sup. 1971) c. 10B § 2; CBC 1975 Ord. T8 § 301)

Cross-reference:

Ord. Section 2-7

8-5.3 Powers and Duties.

The Development and Industrial Commission shall conduct research into industrial conditions, investigate and assist in the establishment of educational or commercial projects, including projects involving private enterprise, for the purpose of expanding or strengthening the local economy, and shall seek to coordinate the activities of unofficial bodies organized for said purposes, and may advertise, prepare, print and distribute books, maps, charts, and pamphlets which in its judgment will further the purposes for which it is established. The Commission shall have such other powers and perform such other duties as may from time to time be conferred or imposed by Section 8A of Chapter 40 of the General Laws.

(Rev. Ord. 1961 (Sup. 1971) c. 10B § 3; CBC 1975 Ord. T8 § 302)

Cross-reference:

G.L. c. 40 § 8A

8-6 INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

No Ordinances Apply. See Special Statutes.
(CBC 1975 Ord. T8 c. 9)

8-7 PUBLIC IMPROVEMENT COMMISSION.

8-7.1 Composition of Board; Powers and Duties.

There shall be in the Public Works Department a Board known as the Public Improvement Commission, consisting of the Commissioner of Public Works, the Commissioner of Real Property, the Commissioner of Traffic and Parking and the Building Commissioner, *ex officio*. The Public Improvement Commission shall be subject to the supervision or control of the Commissioner of Public Works except as he acts as a member of said Commission; but unless otherwise ordered by the Mayor, the Public Improvement Commission shall not communicate with the Mayor, or make any annual or other report, except through the Commissioner of Public Works. The Public Improvement Commission shall have all powers and perform all duties conferred or imposed by statute on the Board of Street Commissioners except (a) those conferred or imposed on the Committee on Licenses in the Public Safety Commission by subsection 14-2.1, (b) those conferred or imposed on the Commissioner of Public Works by subsection 11-6.1 and (c) those conferred or imposed on the Real Property Board by subsection 11-7.1.

(Ord. 1954 c. 2 § 57; Ord. 1962 c. 9 § 3; Rev. Ord. 1961 (Sup. 1971) c. 21 § 36; CBC 1975 Ord. T8 § 500; Ord. 1976 c. 10)

Cross-reference:

St. 7 § 201; St. 11 es. 1, 5, 7; St. 14 c. 3

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

8-8 CREATING THE EMPLOYMENT AND ECONOMIC POLICY ADMINISTRATION.

8-8.1 Creation of EEPA; Appointment of Administrator.

In accordance with City of Boston Code, Ordinances, subsection 2-12.3, there is hereby created a City Department to be known as the Employment and Economic Policy Administration (hereinafter "EEPA") which shall be under the charge of an officer, known as the Administrator, appointed by the Mayor for a term expiring on the first Monday of January following the next biennial municipal election at which a Mayor is elected, who shall have the powers and perform the duties imposed upon him by law.

(Ord. 1980 c. 17 § 1)

8-8.2 Authority of Administrator.

Subject to fundings, the Administrator shall be the appointing authority and from time to time shall establish within the Department such divisions and administrative units within such divisions as may be necessary for the efficient and economical administration of the Department, and when necessary for such purpose, he may abolish any such division, or he may merge any two (2) or more of them, and may abolish or merge any such other administrative units within divisions as he may deem advisable. The Administrator shall prepare and keep current a statement of the organization of the Department, of the assignment of functions to its various administrative units, offices, and employees, and of the places at which, and the methods whereby, the public may receive information or make requests. The Administration shall annually on or before the fifteenth (15th) of August provide to the Mayor and to the City Council a detailed report of the activity of the agency, its projects and plans, and comments on its progress in attacking and solving the problem of unemployment.

(Ord. 1980 c. 17 § 2)

8-8.3 Purpose.

The Employment and Economic Policy Administration shall develop and administer programs in conjunction with Federal, State and local government, private industry and nonprofit organizations to employ more Bostonians and to

improve the general economic well-being of the City. In order to accomplish these ends, the Employment and Economic Policy Administration shall develop and administer programs to:

a. Train and educate chronically unemployed Boston residents;

b. Establish referral and placement opportunities in unsubsidized jobs in private and public sector employment for Boston residents;

c. Encourage increased job development in the City, including technical assistance to private industry to hire and train more Boston residents;

d. Establish specialized programs to assist handicapped and young people in obtaining meaningful employment opportunities to promote their career development;

e. Coordinate with private and public school systems to assist people in obtaining marketable job skills and training as part of their education;

f. Apply for and expend Federal, State and/or other grants to assist in these ends in conjunction with the approval of the Mayor and City Council.

(Ord. 1980 c. 17 § 3)

8-8.4 Use of Funds.

No more than twenty (20%) percent of the annual operating budget of the Employment and Economic Policy Administration may be expended on administrative staff and overhead costs. In any case, no more than two hundred eighty (280) administrative personnel, all of whom shall be residents of Boston, may be employed by the Employment and Economic Policy Administration after December 31, 1980.

All administrative staff positions in EEPA shall be filled and held subject to the receipt by the City of funds from the United States for the various programs set forth in subsection 8-8.3. All qualified residents of the City shall have an equal opportunity for appointment to such positions and shall enjoy equal protection in the holding of such positions.

(Ord. 1980 c. 17 § 4)

8-9 ESTABLISHING THE BOSTON RESIDENTS JOBS POLICY.

8-9.1 Definitions.

The following words as used in this ordinance shall, unless the context otherwise requires, have the following meanings:

Agency shall mean the unit of government, within the structure of the City of Boston that is responsible for the application, administration and execution of Community Development Block Grants, projects in the area of housing and employment, and Federal affirmative action programs, currently the Neighborhood Development and Employment Agency.

Approved Apprenticeship Training Program shall be defined as it is in G.L. c. 23, § 11H and 11I and is approved by the Division of Apprentice Training of the Department of Labor and Industries.

Contract Compliance Office shall mean that office within the structure of the City of Boston government that has purview over the areas of compliance and enforcement for Federal, State and/or local affirmative action programs.

Minority person shall mean and include those persons who are Black, Hispanic, Asian, or native American.

Resident shall mean any person for whom the principal place where that person normally eats and sleeps and maintains his or her normal personal and household effects is within the City limits for the City of Boston.

(Ord. 1983 c. 30 § 2; Ord. 1998 c. 1 § 1)

8-9.2 Policy.

a. On any construction project funded in whole or in part by City funds, or funds which, in accordance with a Federal grant or otherwise, the City expends or administers, or which the City is a signatory to the construction contract, the worker hours on a craft-by-craft basis shall be performed, in accordance with the contract documents provided for in paragraph b. below, as follows:

1. At least fifty (50%) percent of the total employee manhours in each trade shall be by *bona fide* Boston residents;

2. At least twenty-five (25%) percent of the total employee manhours in each trade shall be by minorities;

3. At least ten (10%) percent of the total employee manhours in each trade shall be by women.

For purposes of this paragraph worker hours shall include work performed by persons filling apprenticeship and on-the-job training positions.

b. In order to insure compliance with the ordinance, the provisions of the City of Boston Supplemental Minority participation and Residents Preference Section shall be included by each City Department in all contracts with any private corporation or individual for construction projects covered by this ordinance.

c. It is the policy of the City of Boston that all bidders and all subcontractors under the bidder for public construction projects subject to the provisions of G.L. c. 149, § 44a(2), shall as a condition for bidding, comply with the following conditions:

1. The bidder and all subcontractors under the bidder shall comply with the Boston Employment Plan as it currently exists (CBC Ord. § 8-9 et seq. and 12-10 et seq.) and as it may, from time to time, be amended.

2. The bidder and all subcontractors under the bidder shall comply with the obligations established under G.L. c. 149 to pay the appropriate lawful prevailing wage rates to their employees.

3. The bidder and all subcontractors under the bidder shall comply with the obligations established under G.L. c. 149, § 26 concerning the provision of hospitalization and medical benefits to the extent the requirements of G.L. c. 149, § 26 are applicable to public construction contracts in the City of Boston.

4. The bidder and all subcontractors under the bidder shall comply with the obligations established under G.L. c. 149, § 148B and properly classify employees as employees and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding.

5. The bidder and all subcontractors under the bidder shall adhere to the requirements of this paragraph and G.L. c. 149 for public construction contracts, and shall be sanctioned accordingly for failure to do so. The City of Boston may sanction any bidder or subcontractor under a bidder who fails to maintain throughout the entire duration of a construction project, compliance with this policy or State law with one or more of the following sanctions:

(a) Cessation of work at no cost to the City of Boston until compliance is obtained.

(b) Removal from the project altogether.

(c) Withholding of payment until compliance is obtained.

(d) Liquidated damages based on the value of the contract.

6. It is the policy of the City of Boston to report to the proper enforcement agency of the Commonwealth any contractor or subcontractor who the City of Boston deems in violation of any Massachusetts General Law which is applicable to City-owned construction projects.

(Ord. 1983 c. 30 § 3; Ord. 1998 c. 1 § 2)

8-9.3 Compliance, Enforcement, Sanctions.

a. The agency, as defined in subsection 8-9.1, shall be designated as responsible for the planning, implementation and enforcement of this section, and shall have the following duties:

Planning and Implementation. Prior to the commencement of any construction project, capital works, or City economic development plan covered by this section, the agency shall:

1. Review spending plans for such project;

2. Identify the number of job positions to be created by the project;

3. Specify training needed for entry level and semi-skilled positions by job title;

4. In conjunction with appropriate unions and their existing collective bargaining agreements, recruit employees and arrange for training through established union apprenticeship programs; and

5. Establish a job screening and referral agency which shall refer City residents, minorities, and women to contractors and subcontractors to enable such contractors and subcontractors to comply with this section.

b. The Contract Compliance Office for the City of Boston shall be responsible for enforcing and monitoring compliance with the provisions of this section and for contract provisions established in accordance therewith shall have the following duties:

1. To require all contractors and subcontractors affected by this section to submit weekly workforce charts listing workers by name, residential address, craft, job category, hours worked, sex, race and apprenticeship participation. These charts shall be public records.

2. To negotiate with all contractors/developers in order to identify and classify construction jobs by job titles, hiring dates, duration and training.

3. To register all interested community-based organizations, and notify such organizations of any pre-award conferences between the agency and developer/contractor relating to hiring requirements and goals as stated herein.

c. The agency shall have the power, by means of the contract provisions referred to in subsection 8-9.2, to impose sanctions upon contractors and subcontractors found to be in noncompliance with this section. Such sanctions shall include, but not be limited to: (i) suspension of payments; (ii) termination of the contract; (iii) recovery by the City of .1 percent of the contract award price as liquidated damages; and (iv) denial of right to participate in future projects for up to three (3) years.

(Ord. 1983 c. 30 § 4; Ord. 1998 c.1 § 3)

8-9.4 Liaison Committee.

The agency shall establish a liaison committee which shall meet monthly, in a forum open to the public, to review the agency's reports, monitor

compliance with the provisions of the section, and make recommendations to the Agency and the City Council regarding enforcement of this section. The agency shall accept nominations of three (3) persons from interested groups including, but not limited to: Union Contractors, Non-Union Contractors, Boston Building Trades, State Office of Minority Business Assistance, Contractor Association of Boston, training agency personnel, human rights activist groups, women's organizations, community-based organizations and the Boston Chamber of Commerce. The agency shall thereafter select one person from those nominations submitted by each organization to serve without compensation for a term of two (2) years. This nomination and selection process shall be used to fill any vacancy.
(Ord. 1983 c. 30 § 5)

8-9.5 Training Program.

The City of Boston shall establish or cause to be established, either independently or in concert with craft unions, and construction contractors, job training programs to train minorities, Boston residents, and women for skilled or semi-skilled construction jobs; or, all bidders and all subcontractors under the bidder shall maintain and participate in an approved apprentice training program as defined by G.L. c. 23, § 11H and 11I for each apprenticeable trade or occupation represented in his or her workforce that is approved by the Division of Apprentice Training of the Department of Labor and Industries and must abide by the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract. These programs shall be supervised by the agency.
(Ord. 1983 c. 30 § 6; Ord. 1998 c.1 § 4)

8-9.6 Fines.

Any person who provides false information regarding his or her residence address shall be subject to a fine of not more than three hundred (\$300.00) dollars.
(Ord. 1983 c. 30 § 7)

8-9.7 Independent Agencies.

Any and all activities of any independent agency, operating or acting on behalf of the City of Boston, including, but not limited to, the Boston

Redevelopment Authority and the Economic Development and Industrial Corporation shall comply with the provisions of this section.
(Ord. 1983 c. 30 § 8)

8-10 DISRUPTION MITIGATION PLAN FOR ROAD CONSTRUCTION PROJECTS.

8-10.1 Definitions.

When used in this section:

a. *Major road construction project* shall mean a construction project involving a street or other roadway within the City which is expected to continue in excess of six (6) months and to cost more than one million (\$1,000,000.00) dollars to complete.

b. *Affected area* shall mean the immediate area disrupted by a major road construction project, as determined by the Transportation Department.

c. *Small business* shall mean a business which 1) has fewer than twenty (20) full and part-time employees, and 2) had a yearly sales volume of less than one million (\$1,000,000.00) dollars during its most recent fiscal year.

d. *Completion of a major construction project* shall mean the date on which the Transportation Department accepts the project as finished.
(Ord. 1990 c. 6 § 1)

8-10.2 Disruption Mitigation Plan.

The plans for all major road construction projects shall include a plan for minimizing the disruption to be caused to both small businesses and residents within the affected area. The types of disruption which must be minimized shall include, but shall not be limited to, disruption in the flow of vehicular and pedestrian traffic, loss of parking, interruption of utilities, storage of construction equipment, noise and dust, rodent infestations, deliveries to the construction site and to small businesses, and damage to landscaping. This disruption mitigation plan must be approved by the Transportation Department prior to the start of construction. No officer in charge of a department issuing a building permit, street occupancy permit or

any other permit necessary for a major road construction project shall issue such a permit until the Transportation Department has approved that project's disruption mitigation plan. In addition, no officer authorized to enter into any contract for conducting any part of a major road construction project on any street, roadway or other land owned by the City or any of its agencies shall enter into such a contract unless that contract incorporates the provisions of the disruption mitigation plan approved by the Transportation Department.
(Ord. 1990 c. 6 § 2)

8-10.3 Disruption Impact Fund.

a. All individuals, developers and general contractors performing any part of a major road construction project shall set aside an amount equal to one-half of one (.5%) percent of the expected total cost of the road construction work they are performing as a contingency fund for the reimbursement of damages to small businesses caused by disruption due to the project. This disruption impact fund shall be deposited with the Public Facilities Department prior to the start of construction. No street occupation permit or other permit issued by any officer in charge of a department with respect to a major road construction project shall be valid if the disruption impact fund is not on deposit with the Public Facilities Department.

b. If a small business within the affected area:

1. Suffers a decline in its gross receipts equal to or greater than twenty (20%) percent for any period of sixty (60) consecutive days during the course of the construction work; and

2. That decline can be reasonably attributed to the disruption caused by the major road construction project, then that small business is eligible for reimbursement from the disruption impact fund in an amount equal to the direct and incidental damage to its business which is reasonably attributable to the disruption caused by the project. Compliance with the disruption mitigation plan by those parties performing the construction work shall in no way affect any small business's eligibility for reimbursements from the disruption impact fund. For the purposes of determining a decline in gross receipts, gross receipts for the relevant sixty (60) day

period shall be compared with the average of the small business' gross receipts from the same sixty (60) day period in the previous two (2) fiscal years.

c. The Public Facilities Department shall administer the disruption impact fund. However, eligibility for reimbursements from the disruption impact fund shall not be determined by the Public Facilities Department. Rather, eligibility for the reimbursements shall be determined by arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

d. The Public Facilities Department shall prepare and distribute application forms for small businesses to use to document their claims. Small businesses shall return completed applications to the Public Facilities Department. Upon receiving a completed application from a small business, the Public Facilities Department 1) shall notify the individuals, developers or general contractors responsible for depositing the project's disruption impact fund of the small business' claim, and 2) shall refer the small business' claims for appropriate arbitration.

e. The Public Facilities Department shall be responsible for disbursing the reimbursements from the disruption impact fund to those small businesses the arbitrator determines to be eligible. The individuals, developers or general contractors responsible for initially depositing the disruption impact fund for the project shall reimburse the disruption fund for all disbursements made from the fund to small businesses and for all disbursements made to pay the fees for the arbitration. No street occupation permit or other permit issued by any officer in charge of a department with respect to a major road construction project shall be valid if the disruption impact fund is not regularly replenished after the Public Facilities Department makes disbursements from the fund.

f. Small businesses may apply to the Public Facilities Department for reimbursements from the disruption impact fund as soon as they believe they meet the eligibility criteria, but they must apply no later than thirty (30) days after completion of the major road construction project. Small businesses may make successive reimbursement applications during the course of the construction work if the small business continues to suffer qualifying declines in business.

g. When ninety (90) days have passed after the completion of a major road construction project and all outstanding claims for reimbursement made to the Public Facilities Department have been finally resolved, the Public Facilities Department shall return any funds remaining in the disruption impact fund to the individual, developer or general contractor who originally deposited those funds with the Public Facilities Department.
(Ord. 1990 c. 6 § 3)

8-10.4 Severability.

If any court of competent jurisdiction holds any provision or subsection of this section to be unconstitutional or otherwise invalid, that decision shall in no way affect or impair the other provisions and subsections.
(Ord. 1990 c. 6 § 4)

CHAPTER IX

BUILDING REGULATION

Cross-reference:

Public Buildings; Accessibility for Handicapped, Section 21-4.

9-1 HOUSING INSPECTION DEPARTMENT.

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

9-1.1 Board and Divisions.

There shall be in the City a Department, known as the Housing Inspection Department, which shall be under the charge of a Board, known as the Housing Inspection, consisting of an Officer, known as the Commissioner of Housing Inspection, who shall be Chairman of the Board, another Officer known as the Assistant Commissioner of Housing Inspection, and the Building Commissioner, ex officio. The Commissioner of Housing Inspection and the Assistant Commissioner of Housing Inspection shall each be appointed by the Mayor for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected, and shall devote his whole time to the duties of his Office. The Commissioner of Housing Inspection shall exclusively have the powers and perform the duties, of a Department Head with respect to the making of contracts and the appointment, suspension, discharge, compensation and indemnification of subordinates for the Housing Inspection Department. In the event of the absence or disability of the Commissioner of Housing Inspection or of vacancy in his office, the Assistant Commissioner of Housing Inspection shall act as Chairman of the Housing Inspection Board, and shall have the powers conferred, and perform the duties imposed, upon the Commissioner.

There shall be in the Housing Inspection Department an Inspection Division, an Enforcement Division, and such other Divisions, if any, as the Housing Inspection Board shall from time to time adjudge necessary for the proper conduct of the Department. The Inspection Division shall be under the immediate charge of the Commissioner of Housing Inspection; and the Enforcement Division shall be under the immediate charge of the Assistant Commissioner of Housing Inspection, subject to the general supervision of the Commissioner. (Ord. 1965 c. 1; Rev. Ord. 1961 (Sup. 1971) c. 16A § 1; CBC 1975 Ord. T9 § 1)

Cross-reference:

Ord. Section 2-7; Ord. Section 9-3

9-1.2 Powers and Duties.

The Commissioner of Housing Inspection, shall have the powers and perform the duties from time to time conferred or imposed on a Board of Health by Section 12 of Chapter 83, and Section 127 of Chapter 111, of the General Laws, by Sections 122, 123, 124 and 125 of said Chapter 111 insofar, but only insofar, as said Sections 122, 123, 124 and 125 apply to places of human habitation, and by Sections 127A and 127B of said Chapter 111 insofar, but only insofar, as said Sections 127A and 127B relate (a) to enforcing so much of the State Sanitary Code as concerns standards of fitness for places of human habitation, housing and sanitation standards for farm labor camps, and requirements for the disposal of sanitary sewage in unsewered areas, and (b) to adopting such public health regulations, not inconsistent with the State Sanitary Code or other provisions of law, as in the opinion of the Commissioner of Housing Inspection may be necessary to make and keep all places of human habitation fit for such habitation. The Commissioner of Housing Inspection shall also have the powers and perform the duties conferred or imposed upon the Board of Health of the City, or the Health Commissioner of the City, by Sections 13, 14,

19, 20, 21 and 22 of Chapter 382 of the Acts of 1885, as amended, by Chapter 185 of the Acts of 1897, by Chapter 219 of the Acts of 1897, as amended, by Section 128 of Chapter 550 of the Acts of 1907, as amended, and by Section 116 or any other provision of the Boston Building Code. It shall further be the duty of the Commissioner of Housing Inspection: (1) to receive all complaints of violations, in or about places of human habitation, of any and all statutes, ordinances, rules and regulations enacted for the preservation of health or safety in or about places of human habitation; (2) to refer in writing to the Building Commissioner or the Fire Commissioner, as the case may be, for investigation and prosecution all complaints of violations of the Boston Building Code and the Boston Fire Prevention Code and to maintain written contact with said Commissioners with respect thereto; and (3) to inspect places of human habitation and enforce therein the provisions of law specified in the preceding sentences of this section and all other statutes, ordinances, rules and regulations enacted for the preservation of health in or about such places.

It shall remain the duty and responsibility of the Building and Fire Commissioners, respectively, to enforce compliance with the Boston Building Code and the Boston Fire Prevention Code. To aid them in discharging such duty but without any lessening of their respective responsibilities, the Enforcement Division of the Housing Inspection Department may offer them, and they may accept, assistance designed to unify action upon complaints received by the Commissioner of Housing Inspection.

(Ord. 1968 c. 10 § 1; Rev. Ord. 1961 (Sup. 1971) c. 16A § 2; CBC 1975 Ord. T9 § 2)

Cross-reference:

G.L. c. 83 § 12; G.L. c. 111 §§ 122-125, 127A, 127B; St. 1885 c. 382 § § 13, 14, 19, 22; St. 1897 c. 185; St. 1897 c. 219; St. 1907 c. 550 § 128; St. 1938 c. 479 § 116; St. 1962 c. 314; Ord. 1959 c. 3; Ord. ss 9-1.3; Ord. Section 11-4

9-1.3 Inspection and Re-Inspection of Rental Units.

The purpose of this section is to implement a proactive rental inspection program that maximizes the effectiveness of City resources in rental property code enforcement. It identifies all rental units in the City and their owners on a continuous and recurring basis

in order to accommodate the transient nature of the rental market, and prioritizes notorious problem properties in order to economically target City resources toward chronic and priority offenders. It also provides an alternative compliance plan process available to responsible owners who consistently comply with City and State code in order to expedite them through an inspection process aimed at maintaining a uniform minimum standard for conditions exhibited by rental properties in Boston in the interests of public health and safety.

a. Definitions.

Authorized inspector. Any ISD inspector or any other person who (i) is a Commonwealth of Massachusetts Registered Sanitarian or a Commonwealth of Massachusetts Certified Health Officer or a Commonwealth of Massachusetts Certified Home Inspector, or has proof of training acceptable to ISD, and (ii) has demonstrated a proficiency in the application of the State Sanitary Code by satisfactorily completing the ISD certificate program for qualifying authorized professionals to perform inspections under CBC 9-1.3, and has been issued a certificate of completion.

Commissioner. Commissioner of the Inspectional Services Department or a designee.

Days. Consecutive calendar days

Owner. A for profit or not for profit individual or corporation, an agent of a for profit or not for profit individual or corporation, or any person having legal charge of or authority over a private dwelling, tenement, lodging house, or other residential rental property dedicated to residential use.

Problem property. As defined by Ordinance 16-55.2, as it may be adopted and amended from time to time, a problem property is a property that meets the following criteria and is designated as such following recommendation by the problem properties Task Force: 1, The Police Department has been called to the property not fewer than four (4) times within the preceding twelve (12) month period for any incident involving any arrestable offense including but not limited to disturbing the peace, trespassing, underage drinking or assault; or 2, the Air Pollution Control Commission has received not fewer than four

(4) sustained complaints for noise within the preceding twelve (12) month period; or 3, the Inspectional Services Department or the Public Health Commission have received not fewer than four (4) sustained complaints within the preceding twelve (12) month period for noxious, noisome or unsanitary conditions.

Rental unit. A non-owner occupied room or group of related rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. A rental unit shall also mean a non-owner occupied condominium unit. Dwelling units that have current Lodging House Licenses issued by the Licensing Board for the City of Boston shall not be considered as rental units for the purposes of this section, and will continue to be annually licensed and inspected pursuant to M.G.L. 140 sections 22 and 25.

b. All owners of private residential rental housing units ("Owners"), including condominium units, in the City of Boston shall register no later than July 1st of each year with the Inspectional Services Department ("ISD") identifying the property by street address and the number of units that they own at each address. An owner of a rental unit, who does not reside within the subject dwelling, shall post and maintain or cause to be posted and maintained on such dwelling adjacent to the mailboxes for such dwelling or elsewhere in the interior of such dwelling in a location visible to the residents a notice constructed of durable material, not less than twenty (20) square inches in size, bearing her/his name, address and telephone number. If the owner is a realty trust or partnership, the name, address and telephone number of the managing trustee or partner shall be posted. If the owner is a corporation, the name, address and telephone number of the president of the corporation shall be posted. Where the owner employs a manager or agent who does not reside in such dwelling, such manager or agent's name, address and telephone number shall also be included in the notice. P.O. boxes do not satisfy the address requirement of this section. All owners must register each rental unit annually with ISD, and must attest to and affirm that they are familiar with their obligations to comply with this section, the State Sanitary Code (105 CMR 410), the State Building Code (780 CMR), the City of Boston Zoning Code, Federal, State and Local fair housing regulations, and all other regulations applicable to residential dwellings, and that they

intend to comply with said regulations, by signing a form provided by and approved by the Commissioner of ISD. An owner owning multiple units in the same building may submit one form representing all said units. Any owner residing outside of the Commonwealth of Massachusetts must designate a Boston based resident agent authorized to accept service on the owner's behalf. All rental unit registrations shall be recorded in an electronic database of all owners for an initial fee of twenty-five dollars (\$25.00), and annual renewal fees of fifteen dollars (\$15.00) for each rental unit. The Commissioner shall work to employ technology to the extent possible in order to optimize the fairness and effectiveness of the registration process in accordance with paragraph "p".

c. The following rental units shall be exempt from the inspection requirements of this section: (i) rental units owned or operated by Federal, State, or City Government, (ii) rental units located in dwellings containing six (6) or fewer rental units, one of which is occupied by the owner. ISD will provide exempt unit owners with education materials on all code requirements relative to their units on a regular basis. All non-exempt rental units must be inspected at least once every five (5) years. In order to develop the inspection plan for the first year, and subsequent years of the five (5) year inspections cycle, ISD shall utilize data that may include, but shall not be limited to, inspection records, court records, documented constituent complaints, and any information related to the status of the property with the Problem Property Task Force or information compiled by said Task Force to prioritize a list of properties for inspection in each neighborhood. Owners may request that ISD conduct the inspection or said owner may engage an "authorized" non-ISD inspector meeting the qualifications enumerated in paragraph "a" of this section. The procedures and fees for such inspections are set forth in paragraphs "d", "h", "i", and "j" of this section. Annual comprehensive apartment inspections conducted by the Boston Housing Authority leased housing program or the Metropolitan Boston Housing Partnership leased housing program, or by other Federal, State, or City inspection programs that are accepted by ISD as being substantially equivalent, may be used to satisfy the five (5)-year inspection requirement. ISD shall perform periodic and random audit inspections of no less than five percent (5%) of the "authorized" inspections that are filed with ISD.

d. Residential rental unit owners may fulfill the requirements of CBC 9-1.3 by requesting an inspection from ISD, within thirty (30) calendar days from issuance of an inspection notice, or notifying ISD within thirty (30) calendar days that the inspection will be completed utilizing one of the alternate methods outlined in paragraph "c". Non-ISD inspection reports must be submitted subject to the regulations promulgated by the Commissioner according to paragraph "p". Failed Non-ISD inspections must be accompanied by a compliance plan acceptable to ISD that will bring the subject rental unit into compliance with the minimum standards for human habitation for a residential dwelling as set forth in the Massachusetts State Sanitary Code (105 CMR 410), as it may be adopted and amended from time to time. All inspections shall include a sworn statement and shall be signed by an ISD Housing Inspector, Boston Housing Authority Housing Inspector, a Metropolitan Boston Housing Partnership Housing Inspector, or an "authorized inspector". An authorized inspector shall be prohibited from charging more than one hundred thirty-three percent (133%) of the fee charged by the City of Boston for an inspection performed under these sections.

e. An owner of a unit or units may apply to the Commissioner for a "5-Year" alternative compliance plan under this section to inspect a rental unit once every five (5) years for the compliance with the provisions of the State Sanitary Code. An owner seeking such an alternative plan shall file an application in a format approved by the Commissioner. The Commissioner shall issue written findings regarding the approval or denial of an alternative plan within thirty (30) business days of such application, and shall base the written findings on factors including, but not limited to, the following: (i) a review of the owner's history of property management on file with the City of Boston and a management plan submitted for the property, (ii) a review of the unit's history of compliance with the Massachusetts State Sanitary Code, (iii) a site visit of the property for which the exemption is sought, and (iv) if relevant, a history of compliance with CBC 9-1.3. An alternative plan approved by the Commissioner shall be subject to revocation following a hearing held by ISD if the unit subject to the alternative plan has one (1) or more violations of the Massachusetts State Sanitary Code and if, upon proper notice of those violations to the owner, the violations

have not been corrected in the time provided in such notice. An owner approved for an alternative plan shall be required to maintain maintenance records for any and all alternative plan units for the duration of the effectiveness of the alternative plan, and such records shall be available for review by ISD during regular business hours or upon reasonable notice to the owner. An owner approved for an alternative plan shall be required to maintain compliance with all of the requirements of CBC 9-1.3.

The Commissioner shall charge a fee of: (i) fifty dollars (\$50.00) for the first unit for a five (5) year alternative compliance plan from CBC 9-1.3 and (ii) an additional ten dollars (\$10.00) for each additional unit in the same building up to a maximum of three thousand dollars (\$3000.00) per building and if two (2) or more buildings comprise a complex owned by the same owner then the fee shall not exceed six thousand dollars (\$6,000.00). An owner may apply for an extension of an alternative compliance plan upon expiration, provided that the owner shall complete the entire alternative compliance plan application process and ISD may cause ten to twenty percent (10% to 20%) of the units to be inspected pursuant to CBC 9-1.3. The Commissioner shall follow the same process and procedure as for an original alternative compliance plan application. Alternative compliance plan extensions shall be granted contingently upon a site visit, if ISD determines it is needed, and a favorable review of the unit history dating back to its last inspection. Consistent records of ownership and compliance shall be weighed heavily in the granting of alternative compliance plan extensions and may render such an extension a formality at the discretion of ISD barring any documented circumstances examined on a case by case basis.

f. Any rental unit determined to be a problem property as defined by Ordinance 16-55.2, as it may be adopted and amended from time to time, must annually request an inspection from ISD. Each owner of a problem property shall also file with ISD an annual management plan, within thirty (30) days of its classification as a problem property, outlining the remediation of any outstanding code violations or other persistent conditions requiring the landlord's affirmative response as identified by the Task Force. Said management Plan shall identify the deficiencies in the property, identify consultants and contractors engaged to proceed with any remediation work, detail

any proposal made by the contractors or consultants, and set out a timeline over which the work will be completed.

g. *Chronic offender point system.* Residential rental property owners who fail to register or who repeatedly fail to comply with notices of violations, or warnings of noncompliance, or municipal fines, shall be assessed points based on the following schedule at the time of registration or at the time the violation is found (property owners cannot be assessed points under more than one of the following sections for the same violation):

1. Inclusion on the Problem Property list, (2 points).
2. Failure to comply with an ISD notice of violation under the state sanitary code (105 CMR 400 & 410) the state building code (780 CMR), or Boston zoning code, within the time frame provided, (1 point).
3. Failure to make a good faith effort to correct emergency violations after two (2) inspections (2 points).
4. Failure to register and/ or complete the inspection requirements of CBC 9-1.3, (1 point).

Upon being assessed with points in excess of the amount allowed, as described in Table 1 below, ISD shall notify owners of their classification as a "chronic offender" by mail, return receipt requested. ISD shall notify owners of each point assessed by mail, return receipt requested. The owner shall have fourteen (14) days to request a hearing to contest each point assessment or their classification as a "chronic offender". Chronic offenders are subject to fines of three hundred dollars (\$300.00), or the maximum allowed, for each subsequent point received in a twelve (12) month rolling period, and may also be subject to court prosecution under the applicable codes and regulations. Chronic offenders shall be required to request an inspection of each rental unit once every three (3) years, and it shall be mandatory that ISD conduct said three (3) year inspection. Chronic offenders with less than two (2) points in a rolling twelve (12) month period shall have the chronic offenders classification removed on the last day of the twelfth (12th) month following their classification.

TABLE 1

# Rental Units Owned	Point Threshold in a 12 Month Period	Point Threshold in a 16 Month Period
1 to 50 units	6	10
51 to 500 units	10	16
501 or more units	14	24

h. All inspections performed under these sections shall be performed in accordance with the requirements of the State Sanitary Code and recorded on a form approved by the ISD. The Commissioner shall charge a filing fee of fifteen dollars (\$15.00) for any registration or sworn statement filed by an owner, authorized Inspector or other agent of the owner; said filing fees shall be capped at a maximum of two thousand five hundred dollars (\$2,500.00) per building or five thousand dollars (\$5,000.00) per complex.

For an inspection performed by ISD, the Commissioner shall charge a fee of fifty dollars (\$50.00) per unit for buildings of one (1)-to-three (3) units and seventy-five dollars (\$75.00) per unit for all other buildings, including condominium units. This inspection fee shall provide up to two (2) inspections, for three (3) or more inspections, the Commissioner shall charge a fee of fifty dollars (\$50.00) per inspection for each rental unit inspected.

i. Before conducting an inspection pursuant to CBC 9-1.3 of an occupied unit, reasonable advance notice shall be provided to the occupant in writing. Results of the inspection shall be provided to both the owner and the occupant. If an owner's agent is denied access by the occupant for purposes of conducting a CBC 9-1.3 inspection, the owner of said unit shall notify ISD of such denial within seven (7) calendar days. Such denial shall be noted on a sworn, dated statement filed by an authorized inspector. If any person is denied access to a unit for the purposes of conducting such an inspection by the occupant, then ISD shall verify and document in writing such denial, which shall exempt the owner from the inspection requirements of CBC 9-1.3 for the period of one (1) year. Denial of access by the occupant shall neither deem the dwelling to be in compliance with the State Sanitary Code nor bar the occupant from exercising

legal rights. The Commissioner may cause the unit to be inspected pursuant to the terms herein in the manner provided for in the State Sanitary Code.

j. Decertification process for authorized inspectors and owners granted an inspection waiver:

All authorized inspectors shall perform all inspections in a manner consistent with this section and shall refer to Inspectional Services Department any issue involving imminent life safety or health problems. Authorized inspectors accept the designation to perform these inspections with the understanding that the failure to adhere to the standards of good faith, fair dealing and honesty will result in the revocation of the status as authorized to perform these inspections, action against the professional license and if relevant, notification to authorities for criminal prosecution. ISD shall immediately revoke the approval of any authorized inspector, or owner who has been granted an inspection waiver, who misrepresents the condition of a unit or fails to inspect a unit with due care, misrepresents any information on the application form or any form or document submitted under this section, or for any reason demonstrating a failure to honor the requirement of good faith and fair dealing. An authorized inspector may request a hearing once aggrieved by such a revocation of approval. A hearing shall be held within thirty (30) days upon a written request from the aggrieved party.

k. Failure to comply with any provisions of this ordinance shall be punishable by a fine as set out in paragraph "r" of the CBC 9-1.3.

l. Any and all notices, statements, inspection forms, applications including supporting documentation, and any other documents concerning an inspection pursuant to CBC 9-1.3 shall be a matter of public record.

m. In an effort to evaluate the effectiveness of the inspection programs delineated herein, the Commissioner shall annually prepare a report detailing the activities of the program no later than July 31st of each calendar year, beginning June 30th, 2014. The annual written report shall include the following items:

1. The number of registration statements received by the Commissioner during the prior twelve (12) month period.

2. The number of owners issued fines or citations by ISD for (i) failing to initially file a registration statement and (ii) for failing to file a registration statement within thirty (30) days of written notice from ISD.

3. The total number of inspections performed by ISD inspectors during the prior twelve (12) months, along with a district categorized list of the number of inspections performed in such district during such period.

4. The total number of inspections performed on problem properties, as defined in Ordinance 16-55.2, along with a break down by district of the number of problem properties inspected in such district.

5. Such other information as may be requested by the City Council

n. The provisions of CBC 9-1.3 may be enforced in accordance with the noncriminal disposition process of M.G.L. c. 40, s. 21D, provided that this section shall not preclude the City of Boston from proceeding to restrain a violation by injunction. The provisions of this section may also be enforced according to M.G.L. Chapter 40 as accepted by the City of Boston, also known as the "Green Ticket" law.

o. Transfer or ownership of rental units must be reported to ISD within thirty (30) days of closing. New property owners must register within thirty (30) days of closing and must submit a reasonable maintenance plan that identifies and address the any significant code deficiencies within the subject property. If the property was acquired during its inspection year and the inspections did not occur before the transfer of ownership, then the new owner must, within ninety (90) days, must complete any required inspection or apply for an alternative compliance plan.

p. The Commissioner shall promulgate written rules and regulations necessary to implement and enforce the provisions of CBC 9-1.3. The Commissioner will work to employ and implement technology to the extent possible in order to optimize the fairness and effectiveness of the registration and inspection processes within these rules, which may be revised from time to time.

q. If any provision of CBC 9-1.3 shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

r. The provisions of CBC 9-1.3 shall be effective one hundred twenty (120) days after its date of passage.

s. *9-1.3 fines for violation of rental re-inspection.* Any failure to comply with Section 9-1.3 will result in the assessment of a fine of three hundred dollars (\$300) per month beginning in the first month in which the property is found not to be in compliance and continuing for each subsequent month thereafter.

(Ord. 1984 cs. 26, 39; Ord. 1995 c. 8 § 1; Ord. 2003 c. 16 § 1; Ord. 2012 c. 9)

9-1.4 Rental Dwelling Unit Delivery Standards.

Whenever a rental unit is turned over to a new tenant said rental unit must be delivered in a safe and sanitary condition. Absentee owners must provide the occupants and city officials with appropriate contact information. All rental units must be in compliance with the requirements established herein at the time of delivery to a new tenant.

Compliance with requirements of this section does not supercede the property owner's requirements, under CBC 9-1.3, Re-Inspection of Rental Units, to request a rental unit inspection within forty-five (45) days of turnover, to ensure that the rented unit meets all of the minimum requirements of the State Sanitary Code (105 CMR 410). Compliance with either or both sections does not restrict the right of any occupant to, at any time, request that the Inspectional Services Department conduct an inspection of his or her rental premises for violations of any applicable code.

a. *Definitions.* For the purpose of this section the following definitions shall apply:

Compliance means meeting all the requirements of this section. It shall also mean correcting any violations of this section in a competent fashion and restoring all parts of the rental dwelling unit, to a condition complying with this section.

Compliance shall also mean, in those cases where licenses or permits are required to perform work necessary to correct the violations, such as, but not limited to, building, plumbing and wiring, that the work has been completed in accordance with applicable laws and regulations.

Garbage means the animal, vegetable or other organic waste resulting from the handling, preparing, cooking, consumption or cultivation of food, and containers and cans, which have contained food unless such containers and cans have been cleaned or prepared for recycling.

Means of egress means a continuous and unobstructed path of travel from any point in a dwelling to an abutting public way in accordance with the Massachusetts State Building Code, 780 CMR 1002.

New tenant is a person who has, within the previous twenty-four (24) hours, occupied for the first time a rental dwelling unit under the terms of a rental housing agreement with the property owner/agent for the use and occupancy of any dwelling unit for a period of time more than thirty (30) days.

Occupant means every person living or sleeping in a dwelling pursuant to a rental housing agreement with the property owner/agent.

Property owner/agent shall mean the individual or business entity which holds title to any dwelling unit, including without limitation, a person, partnership, corporation, or trust. For purposes of this section, the rights and duties of the landlord hereunder shall be the obligation of anyone who manages, controls, or customarily accepts rent on behalf of the landlord.

Provide means to supply and pay for, except where an applicable statute or regulation provides otherwise.

Rental dwelling unit shall mean the part of a building that is rented for use as a home, residence, or sleeping place by one (1) or more persons who maintain a household, in accordance with the requirements of the Massachusetts Building Code, 780 CMR, and the Massachusetts State Sanitary Code, 105 CMR 410.

Rubbish means combustible and noncombustible waste materials, except garbage, and includes but is not limited to such materials as paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, grass clippings, tin cans, metals, mineral matter, glass, crockery, dust, and the residue from the burning of wood, coal, coke and other combustible materials.

Safe means free from conditions which may endanger or materially impair the health or safety and well-being of an occupant or the general public, as set forth in 105 CMR 410.750, but may include any other condition so certified by the Massachusetts Department of Public Health, to be violations which may expose or subject to harm, the health or safety, and the well being, of an occupant or the public.

Violation means any condition in a rental unit, which fails to meet any requirement of this section.

b. *Requirements.* Property owners/agents shall deliver rental units to new tenants in a clean, safe condition, in compliance with the provisions of CBC 9-1.3, this section CBC 9-1.4, the Massachusetts State Sanitary Code, 105 CMR 410, and with all other applicable codes and ordinances. Rental units shall be delivered meeting the following minimum requirements:

1. *Clean and sanitary.* The common areas and the interior of rental units must be in a clean and sanitary condition, free of garbage, rubbish, or other filth causing sickness, at the time of delivery to a new tenant.

2. *Posting of ownership information.* The owner of a dwelling which is rented for residential use, who does not reside therein and who does not employ a manager or agent for such dwelling who resides therein, shall post and maintain or cause to be posted and maintained on such dwelling in a location visible to the residents, a notice constructed of durable materials not less than twenty (20) square inches in size, bearing his or her name, actual street address and mailing address and current, active telephone number. Post office box address shall not satisfy these requirements. If the owner is a realty trust or partnership, said information for the managing trustee or partner shall be posted. If the owner is a corporation, such information of the corporation shall be posted. Where the owner employs a manager or

agent who does not reside in such dwelling, such information for said manager or agents shall also be included in the notice. (See M.G.L. c. 143, s. 3S.)

3. *Smoke detectors.* Property owners shall provide and maintain smoke detectors in or adjacent to sleeping areas as required by the regulations of the State Board of Fire Prevention (527 CMR) or of the State Fire Marshal. If any dwelling is found by the Boston Fire Department to be adequately equipped with smoke detectors, such findings shall satisfy the requirements of this section.

4. *Carbon monoxide detectors.* Upon delivery of a rental unit to a new tenant, the property owner must provide and maintain functioning carbon monoxide detectors in accordance with the requirements of 527 CMR 31.

5. *Safe.* Rental units must be delivered free of conditions which may endanger or materially impair the health or safety and well being of an occupant, pursuant to 105 CMR 410.750. These conditions include, but are not limited to, failure to provide heat; failure to provide adequate exits; failure to provide a toilet; the existence of structural or other defects that may expose the occupant or anyone else to fire, burns, shock, accident or other dangers or impairment to health or safety.

c. *Enforcement process.* To seek relief under this section, a new tenant shall request an inspection within twenty-four (24) hours of moving into a rental dwelling unit. Inspectional Services will cause that rental unit to be inspected no later than two (2) business days of receiving the request.

The scope of an inspection conducted pursuant to this section shall be limited to the requirements of this section, and the inspection results will be noted on an approved inspection form developed for the purposes of this section. If the inspection reveals one (1) or more violations of this section said violation shall be cited and enforced under this section and under the State Sanitary Code, 105 CMR 410. The cited property owner or agent shall be provided with no less than twenty-four (24) hours and no more than fourteen (14) days to correct said violations, and said violation shall be considered as one (1) offense, punishable by a fine of up to three hundred (\$300.00) dollars, or up to the maximum fine allowed by law, if that amount is higher than three hundred (\$300.00) dollars.

A follow-up inspection shall be conducted within five (5) days of the expiration of the compliance deadline established by Inspectional Services. If the follow-up inspection reveals that the violation remains outstanding, that failure to correct shall constitute a second offense punishable by an additional fine of up to three hundred (\$300.00) dollars, or up to the maximum fine allowed by law, if that amount is higher than three hundred (\$300.00) dollars. After the expiration of the compliance deadline established by Inspectional Services, each subsequent day's failure to correct the violations shall be considered a separate offense punishable by up to three hundred (\$300.00) dollars or up to the maximum fine allowed by law.

d. *Inspection checklist available to the public.* Inspectional Services shall develop and make available the inspection checklist that may be used to verify that a rental unit meets the requirements of this section prior to delivery to new tenants.

e. *Exemptions.* Housing units owned or operated by Federal, State, or City agencies shall be exempt from the provisions of this section.

f. *Penalties.* The provisions of this section may be enforced in accordance with the non-criminal disposition process of M.G.L. c. 40, s. 21D, provided that this section shall not preclude the City of Boston from proceeding to restrain a violation by seeking an injunction. The City of Boston reserves the right to enforce noncompliance with the requirements of this section, through the Boston Housing Court or any other court of competent jurisdiction, where it shall seek correction of the violations and payment of any outstanding fines under this section.

The Commissioner of Inspectional Services shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2006 c. 5)

9-2 WEIGHTS AND MEASURES DIVISION.

9-2.1 Weights and Measures Division.

There shall be in the Housing Inspection Department a Division, known as the Weights and Measures Division, as provided in the charter as that term is defined in clause Fifth of Section 7 of Chapter 4 of the General Laws.

(Ord. 1968 c. 14 § 6; Rev. Ord. 1961 (Sup. 1971) c. 16A § 3; CBC 1975 Ord. T9 § 10)

Cross-reference:

G.L. c. 4 § 7 c. 1.5

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all power and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

[Text continues on page 903.]

CITY OF BOSTON CODE – ORDINANCES

9-3 BUILDING DEPARTMENT.

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

9-3.1 Duties of Building Commissioner.

The Building Department shall be under the charge of the Building Commissioner, who shall exercise the powers and perform the duties provided by statute, and may appoint not exceeding thirty (30) Building Inspectors for duty in his Department.

The Building Commissioner shall also have the powers and perform the duties conferred or imposed by statute on the Wire Commissioner and on the Fire Commissioner as successor to the Wire Commissioner, and shall carry out the provisions and requirements of law relating to wires and inspection of wires and the installation and use of electrical conductors and appliances in buildings in the City. (St. 1871 c. 280; St. 1938 c. 479 § 109; Ord. 1954 c. 2 § 20; Rev. Ord. 1961 c. 9 § 1; CBC 1975 Ord. T9 § 50)

Cross-reference:

Ord. Section 11-4

9-3.2 Street Numbers.

The Building Commissioner shall assign a street number to each building on a street and shall require such number to be affixed to or inscribed on the building by the owner, and may determine the form, size and material of any such number and the place and mode of affixing or inscribing it. (Ord. 1954 c. 9 § 1; Rev. Ord. 1961 c. 9 § 2; CBC 1975 Ord. T9 § 51)

9-3.3 Illumination of Residential Buildings.

a. *Purpose.* It is the intent of this ordinance to protect the public safety by assuring adequate illumination of all doorways, alleys, passageways, and entrances to and from residential buildings used by the occupants thereof as a means of access and egress. In adopting rules and standards the Building

Commissioner and the Commissioner of Housing Inspection may consider existing public lighting and shall endeavor to protect abutting buildings from existing glare.

b. Every owner of a building containing four (4) or more dwelling units, including but not limited to apartment buildings, apartment hotels, boarding and lodging houses, fraternities, sororities, and dormitories, shall provide adequate illumination between sunset and sunrise of all doorways and entrance areas, on the front, rear, or sides of such building at or with principal access from grade, in accordance with reasonable rules and standards to be promulgated by the City of Boston Building Commissioner and Commissioner of Housing Inspection, within sixty (60) days following enactment of such rules and standards. In addition, such owners shall provide reasonable illumination of parking areas adjacent to such buildings and containing parking spaces required under the provisions of the Boston Zoning Code.

c. The Building Commissioner and Commissioner of Housing Inspection are hereby authorized and directed within thirty (30) days after the effective date of this ordinance to hold a public hearing on the adoption of proposed rules and standards hereunder, such hearing to be advertised by at least seven (7) days notice in a paper of general circulation within the City, such notice to contain the date, time, and place of said public hearing and terms of the proposed rules and standards. Following such public hearing the Building Commissioner and Commissioner of Housing Inspection shall issue final rules and standards no later than sixty (60) days thereafter. Any owner deeming himself to be aggrieved shall have a right of appeal and review in accordance with the provisions of the Boston Building Code to the same extent as if said rules and standards were an integral part of said code. (Ord. 1973 c. 6; CBC 1975 Ord. T9 § 52)

Cross-reference:

St. 1938 c. 479; Ordinances, Title 9, Chapters 1, 7

9-3.4 Building Limits.

The building limits referred to in paragraph (b) of Section 202 of the Boston Building Code shall continue as established by Chapter 4 of the Ordinances of 1913 as follows:

All that portion of the City which is included within a line beginning at the intersection of the boundary lines between the City of Boston and the Cities of Somerville and Everett; thence by the boundary lines between the City of Boston and the Cities of Everett and Chelsea to the intersection with the center line of Trumbull Street extended northerly; thence by said center line of Trumbull Street extended, the center line of Trumbull Street and said center line extended southerly to the Harbor line; thence by said Harbor line to its intersection with the easterly line of Pier No. 5 belonging to the Boston and Albany Railroad Company; thence by a straight line across Boston Harbor to its intersection with the Harbor line at the easterly corner of Pier No. 1, in South Boston; thence by the Harbor line in the northerly, easterly and southerly portions of South Boston to an angle in said Harbor line nearly opposite the intersection of the center line of Columbia Road with the center line of location of the Old Colony Railroad; thence by a straight line to the said intersection; and by the center lines of Columbia Road, Blue Hill Avenue, Seaver Street, Columbus Avenue, Atherton and Mozart Streets, Chestnut Avenue, Sheridan, Centre, and Perkins Streets, South Huntington Avenue, Castleton Street and the center line of said Castleton Street extended to the boundary line between the City of Boston and the Town of Brookline; thence by said boundary line to a point therein one hundred (100') feet southwest of Washington Street in the Brighton district; thence by a line parallel to and one hundred (100') feet southwest from the center line of Washington Street to an angle formed by the intersection of said line with the extension of a line parallel to and one hundred (100') feet northwesterly of the center line of Market Street; thence by said extension and said line parallel to and one hundred (100') feet northwesterly of the center line of Market Street to a point one hundred (100') feet south of the center line of Western Avenue; thence be a line parallel to and one hundred (100') feet south of the center line of Western Avenue and said line extended to a point in the boundary line between the City of Boston and the Town of Watertown south of Watertown Bridge, so-called; thence by said boundary line and the boundary line between the City of Boston and the Cities of Cambridge and Somerville to the point of beginning. Also those portions of the Hyde Park district upon or within one hundred (100') feet of the following-named streets and squares: Everett

Square, so-called; Fairmount Avenue from River Street to Neponset River; River Street from the location of the Boston and Providence Railroad to Winthrop Street; Hyde Park Avenue on the easterly side from the northerly side of Oak Street to Everett Street; Hyde Park Avenue on the westerly side from the northerly side of Pine Street extension, so-called, to a point on said Hyde Park Avenue opposite the southerly line of Everett Street; Harvard Avenue from River Street to Winthrop Street; Maple Street from River Street to a point one hundred eighty (180') feet southerly therefrom; Central Avenue from River Street to Winthrop Street; Davison Street from Fairmount Avenue to a point three hundred (300') feet northeasterly therefrom; Grove Street; Pierce Street from Fairmount Avenue to a point three hundred (300') feet northeasterly therefrom; Knott Street from Fairmount Avenue to a point three hundred (300') feet easterly therefrom; Railroad Avenue from Fairmount Avenue to a point three hundred (300') feet northeasterly therefrom; Station Street from the Neponset River to a point three hundred (300') feet northeasterly from Fairmount Avenue; Walnut Street from Fairmount Avenue to a point three hundred (300') feet southwesterly therefrom; Maple Street from Fairmount Avenue to a point one hundred twenty-five (125') feet westerly therefrom.

(Rev. Ord. 1898 c. 45 § 27; Ord. 1912 c. 5; Ord. 1913 c. 4; CBC 1975 Ord. T9 § 53)

Cross-reference:

St. 1938 c. 479 § 202 (Boston Building Code);

Ord. § 7-4.9

9-4 BOARD OF APPEAL.

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

9-4.1 Board Members.

There shall be in the Building Department a Board, known as the Board of Appeal, consisting of five (5) members appointed by the Mayor as follows: one member from two (2) candidates nominated, one by The Boston Society of Architects and one by the Boston Society of Civil Engineers, one member from two (2) candidates nominated by the Building Trades

Council of Boston and Vicinity, one member from two (2) candidates nominated, one by the Greater Boston Real Estate Board and one by the Massachusetts Real Estate Association, one member from three (3) candidates nominated, one by The Master Builders' Association of Boston, one by the Building Trades Employers' Association of the City of Boston and one by the Associated General Contractors of Massachusetts, Inc., and one member selected at large by the Mayor. All members of the Board of Appeal shall be residents of, or engaged in business in, Boston. As the term of any member in office expires, his successor shall be appointed in like manner as such member for a term of five (5) years. Vacancies in the Board shall be filled in the same manner for the unexpired term. No member of the Board shall act in any case in which he has a personal interest; and when a member is so disqualified or absent or when there is a vacancy in the office of a member, the remaining members shall designate a substitute.

The Board of Appeal shall not be subject to the supervision or control of the Building Commissioner; but unless otherwise ordered by the Mayor, the Board of Appeal shall not communicate with the Mayor, or make any annual or other report, except through the Building Commissioner.

(St. 1938 c. 479; Ord. 1954 c. 2 § 21; Rev. Ord. 1961 c. 9 § 3; CBC 1975 Ord. T9 § 150)

Cross-reference:

Ord. Section 2-7; Ord. Section 9-3

9-4.2 Powers and Duties.

The Board of Appeal shall exercise the powers and perform the duties set forth in Sections 117, 118 and 119 of the Boston Building Code, and Section 19 of Chapter 488 of the Acts of 1924.

(Rev. Ord. 1961 c. 9 § 4; CBC 1975 Ord. T9 § 151)

Cross-reference:

St. 1924 c. 488 § 19; St. 1938 c. 479 § § 117, 118, 119

9-5 ZONING COMMISSION.

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

9-5.1 Board, Powers and Duties.

There shall be in the Building Department a Board, known as the Zoning Commission, provided for by Section 1 of Chapter 665 of the Acts of 1956, as amended. Said Board shall exercise the powers and perform the duties provided by statute. Said Board shall not be subject to the supervision or control of the Building Commissioner; but unless otherwise ordered by the Mayor, the Zoning Commission shall not communicate with the Mayor, or make an annual or other report, except through the Building Commissioner.

(Rev. Ord. 1961 c. 9 § 10; CBC 1975 Ord. T9 § 200)

Cross-reference:

St. 1956 c. 655 § 1; Ord. § 9-3

9-5.2 Designating Zoning Commissioners as Special Municipal Employees.

The Zoning Commissioners shall be deemed to be Special Municipal Employees for the purposes of Massachusetts General Laws Chapter 268A.

(Ord. 1988 c. 3 § 1 S201)

9-6 BEACON HILL ARCHITECTURAL COMMISSION.

No Ordinances Apply. See Special Statutes. (CBC 1975 St. T9 c. 9)

9-7 BACK BAY ARCHITECTURAL COMMISSION.

No Ordinances Apply. See Special Statutes. (CBC 1975 St. T9 c. 11)

9-8 BOARD OF EXAMINERS.

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

9-8.1 Appointment, Term, Compensation.

There shall be in the Building Department a Board, known as the Board of Examiners, consisting of three (3) members appointed by the Mayor, of whom one shall be an architect or engineer with at least five (5) years' experience in the City, one a contractor or person well qualified in the supervision of construction work with at least five (5) years' experience in the City, and one a lawyer or other person with proper legal qualifications. As the term of any member expires, his successor shall be appointed by the Mayor for a term of three (3) years. Vacancies in the Board shall be filled by the Mayor for the unexpired term.

The Board of Examiners shall not be subject to the supervision or control of the Building Commissioner; but unless otherwise ordered by the Mayor, the Board of Examiners shall not communicate with the Mayor, or make an annual or other report, except through the Building Commissioner.

(St. 1912 c. 713; Ord. 1912 c. 9; St. 1938 c. 479 § 120; Ord. 1954 c. 2 § 22; Rev. Ord. 1961 c. 9 § 5; CBC 1975 Ord. T9 § 350)

Cross-reference:

Ord. Section 2-7; Ord. Section 9-3

9-8.2 Powers and Duties.

Said Board shall exercise the powers, perform the duties and issue licenses as set forth in Section 120 of the Boston Building Code.

(Ord. 1956 c. 7 § 3; Rev. Ord. 1961 c. 9 § 6; CBC 1975 Ord. T9 § 351)

Cross-reference:

St. 1938 c. 479

9-9 INSPECTIONAL SERVICES DEPARTMENT.

Editor's Note:

Ch. 6 of the Ordinances of 1985 repealed this section. A decision of the Mass. Appeals Court, 24 Mass. App. Ct. 663 (1987), however held said ordinance invalid.

9-9.1 Establishment.

There shall be in the City, a Department known as the Inspectional Services Department, which shall

be under the charge of an Officer known as the Commissioner, appointed by the Mayor, who shall have the powers and perform the duties imposed upon him or her by law, and who shall be compensated as an officer within Category I of subsection 5-5.10 of the Code of Ordinances. The Inspectional Services Department shall have and exercise all of the duties imposed upon it by law including but not limited to the duties formerly held and exercised by the Building Commissioner, the Housing Inspection Commissioner and any other Commissioner or Department whose duties were transferred to the Inspectional Services Department by prior amendments of this code. The Commissioner shall prepare and keep current a statement of the organization of the Department, including the assignment of functions to the various offices and employees.

(Ord. 1981 c. 19; Ord. 1994 c. 1 § 1; Ord. 1995 c. 8 § 2)

9-9.2—9-9.3 Reserved.

Editor's Note:

Former subsections 9-9.2, Commissioner and 9-9.3, Joint Appointment, previously codified herein and containing portions of Ordinance Nos. 1981 c. 19 and 1994 c. 1, were repealed in their entirety by Ordinance No. 1995 c. 8.

9-9.4 Empowered to Accept Delegation.

The Board of Health and Hospitals may delegate to the Inspectional Services Department the enforcement of any statute, ordinance or regulation heretofore enforced by, or adopted by, said Board. Any other Board, Officer, Department or Commission may, subject to the approval of the City Council, delegate to the Inspectional Services Department the enforcement of any statute, ordinance or regulation heretofore enforced by or duly adopted by such Board, Officer, Department or Commission. The Inspectional Services Department is hereby empowered to accept such delegation and may exercise any and all powers necessary or convenient in furtherance of any such delegation. Notice of such delegation shall be filed with the City Clerk.

(Ord. 1981 c. 19)

9-9.5 Board of Appeal and Board of Examiners.

The Board of Appeal and Board of Examiners are hereby transferred to the Inspectional Services Department but neither shall be under the supervision or control of said Department.
(Ord. 1981 c. 19)

9-9.6 Administrative Units.

The Commissioner may from time to time, establish within the Department such administrative units within Divisions as may be necessary for the efficient and economical administration of the Department, and when necessary for such purpose, he may abolish or merge any such administrative units within Divisions as he may deem advisable. Subject to the approval of the Mayor and City Council, the Commissioner may establish, abolish, or merge Divisions. The Commissioner shall prepare and keep current a statement of the organization of the Department, of the assignment of functions to its various administrative units, offices, and employees, and of the place at which and the methods whereby the public may receive information or make requests.
(Ord. 1981 c. 19)

9-9.7 The Building and Housing Inspection Departments.

The Building Department and the Housing Inspection Department of the City are hereby respectively abolished. All powers, duties and appropriations of said Departments are hereby transferred to the Inspectional Services Department created by subsection 9-9.1 of this section; and every person holding in said or other Departments an office or position subject to the Civil Service Law and Rules shall be transferred without Civil Service examination or registration to a similar office or position in the Inspectional Services Department without impairment of his Civil Service rights or his retirement, seniority, vacation or sick leave rights; and his services shall be deemed to have been continuous to the same extent as if such abolition had not taken place.
(Ord. 1981 c. 19)

9-9.8 Site Cleanliness Licenses.

No person shall operate or maintain an automotive establishment, a food and beverage establishment, bulk refuse container storage lot, a donation collection bin, or a bulk refuse container

without first obtaining the site cleanliness license required by this subsection or unless the same is maintained in accordance with said license and any regulation promulgated hereunder.

a. *Definitions.* As used in this subsection, the following words and phrases shall have the meanings given in the following clauses. Where words and phrases are not defined in the following clauses, such words and phrases shall have their ordinarily accepted meanings such as the context implies.

Automotive Establishments shall mean autobody shop, car wash, garage, gasoline station, motor vehicle repair garage or lot, retail business establishment or other place for the sale, service, repair, or installation of new or used motor vehicles, new or used motor vehicle parts, new or used tires, or new or used motor vehicle accessories, whether or not vehicles are serviced or parts or accessories are installed or used on or off the premises.

Bulk Refuse Containers shall mean dumpsters, trash compactors, or any other container or receptacle where recyclable materials, debris, refuse, trash, solid waste or like material are contained or stored in any quantity for any period of time.

Bulk Refuse Container Storage Lot shall mean lot for the storage, repair, or maintenance of empty or loaded dumpsters, roll-off containers, trash compactors or any other container or receptacle where debris, refuse, solid waste, trash, recyclable material, or like material, are contained or stored in any quantity for any period of time.

Donation Collection Bin shall mean any container or receptacle, at or on the exterior property areas of any premise, held out to the public as a place for people to drop off articles of clothing and/or other household items.

Food, Beverage Establishments shall mean restaurant, lunchroom, cafeteria, drive in restaurant, take out restaurant, night club, bar or tavern or other retail business establishment open to the public for the sale or service of food, food products or beverages, whether the food, food products or beverages are prepared for consumption on premises; or where food, food products and beverages are sold or served in disposable containers; or where the establishment provides disposable tableware, napkins, containers, condiments or other disposable material to the public as a usual business practice.

Lot shall mean a parcel of land including land under water, whether or not platted, in single ownership, and not divided by a street.

Site Cleanliness License shall mean the license required by this subsection and issued by the Inspectional Services Department upon satisfactory review of the site cleanliness license application and Site Cleanliness Plan.

Site Cleanliness Plan shall mean an operational and maintenance plan for each automotive establishment, food/beverage establishment, bulk refuse container storage lot, or any bulk refuse storage container governed by this subsection. The plan shall also include all information included in the Site Cleanliness Plan application as discussed in paragraph d. below.

b. *Applicability.* The Site Cleanliness Ordinance shall apply to all existing and future automotive establishments, food and beverage establishments, bulk refuse container storage lots, donation collection bins, and bulk refuse containers located within the City.

c. *License Required for Site Cleanliness of Establishments, Donation Collection Bins and Bulk Refuse Containers.* No automotive establishment, food/beverage establishment, or bulk container storage lot shall operate, and no bulk refuse container or donation collection bin shall be used, without first obtaining a site cleanliness license from the Commissioner of Inspectional Services. If the Commissioner of Inspectional Services determines that a submitted site cleanliness license application is accurate and adequate to keep the site free from debris, refuse, trash, solid waste or like material that is injurious to the public health, safety, and environment, the Commissioner shall issue a site cleanliness license for the establishment, bulk refuse container storage lot, or bulk refuse container. Performance of the activities scheduled in the Site Cleanliness Plan shall be a condition of the license and nonperformance of the activities scheduled in the Site Cleanliness Plan shall be a violation of the license and conditions of this subsection. An operator of donation collection bins shall only need one (1) license for any donation collection bins he/she operates. Operators of donation collection bins shall not be required to submit

a Site Cleanliness Plan as a condition of the license, but said operators must meet the additional requirements outlined in subsection (d) and meeting these requirements shall be a condition of the license and nonperformance of the activities specifically pertaining to donation collection bins shall be a violation of the license.

d. *Contents of License Application.* A complete site cleanliness license application consists of a completed application form and a Site Cleanliness Plan attached thereto. The site cleanliness application form shall be in a form approved by the Commissioner. A Site Cleanliness Plan shall, at a minimum, include the following information:

1. The address of the lot on which the establishment is located;
2. The name, address, and telephone number of the owner of the lot;
3. The name, address, and telephone number of the operator of the establishment located on the lot;
4. The type of establishment and nature of its business;
5. A plot plan accurately depicting the lot;
6. The location of any bulk refuse container and the location of the bulk refuse container in relation to all abutting lots;
7. A weekly schedule detailing the times and days of the week for cleaning and maintaining the site free of windblown litter and refuse;
8. The name of a supervisor responsible for overseeing the cleaning and maintenance of the site;
9. The name and address of the waste hauling company responsible for servicing the establishment, bulk refuse container storage lot, or bulk refuse container;
10. The date, time, and frequency of service by the waste hauling company;

11. Any and all permits and/or licenses issued by the Department of Environmental Protection relating to the management, storage, and disposal of solid wastes and hazardous materials and hazardous wastes generated, stored, or disposed on site;

12. Any and all permits and/or licenses issued by the Boston Fire Department;

13. Any and all permits and/or licenses issued by the Inspectional Services Department;

14. Any and all permits and/or licenses issued by the Public Works Department;

15. The name, address, and phone number of the pest control company servicing the establishment, bulk refuse container storage lot, or bulk refuse container;

16. Any fencing or screening required; and

17. Any other information required by the Inspectional Services Department to ensure the site is maintained in a sanitary condition free of debris, refuse, trash, solid waste or like material that is injurious to the public health, safety, and environment.

Operators of donation collection bins shall not be required to submit a completed Site Cleanliness Plan as outlined above, but shall be required to provide the information required by subsections 1, 3, 7, 8 and 17, inclusive, as it pertains to all donation collection bins in operation. The name, address, and telephone number of the person or persons responsible for maintaining each donation collection bin must also be posted and plainly visible on each operator's donation collection bins. In addition to the requirements outlined in section g., operators of donation collection bins must also provide the Inspectional Services Department with the regular interval schedule for all bins in operation at which the operator collects the items donated and performs regular maintenance. Said interval shall not be greater than thirty (30) days. Any operator of a donation collection box must provide the Inspectional Services Department with written authorization from all owners of all lots upon which they operate a donation collection bin stating that the operator has the owner's permission to operate a donation collection box on

said lot. If after receiving an annual site cleanliness license the operator of a donation collection bin plans on placing a new donation collection bin anywhere in the City, the operator must first apply for an updated site cleanliness license and provide all required information pertaining to the new bin.

e. *Screening/Fencing Requirements.* All bulk refuse containers maintained by establishments governed by this ordinance shall be screened or fenced off from view from public ways, sidewalks, and adjoining properties at all sites other than construction sites, unless said screening would eliminate disposal access to the bulk refuse container.

f. *Posting Requirements.* The Site Cleanliness Plan and site cleanliness license shall be posted in a conspicuous place on the premises in public view. This requirement shall not apply to premises containing a donation collection bin, but the license shall be posted directly on said bin.

g. *Inspections.*

1. *Authority.* In order to properly carry out their respective responsibilities under this Ordinance, and to ensure that the public health, safety and environment are protected from the hazards posed by unsanitary and unhealthy conditions, the Inspectional Services Department is authorized to enter, examine, or survey at any reasonable time all establishments, donation collection bins and bulk refuse containers licensed hereunder.

2. *Systematic Area Inspections.* The Inspectional Services Department is authorized to develop and adopt plans for systematic, periodic area-wide inspections of establishments, bulk refuse container storage lots, donation collection bins and bulk refuse containers required to obtain a site cleanliness license.

3. *Interference With Inspection.* If any owner, occupant, or other person refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to the site, operation, or premise where inspection is authorized by this subsection, the Inspectional Services Department may seek in a court of competent jurisdiction an inspection warrant that allows for the inspection of the site and appraises the owner, occupant, or other person concerning the

nature of the inspection, the scope of the inspection, and justification for it and may seek the assistance of the police authorities in presenting said warrant.

h. *Violation.* The operation or maintenance of any establishment, donation collection bin or bulk refuse container governed by this subsection without a site cleanliness license; the failure to operate or maintain the same in accordance with a validly issued site cleanliness license; and the interference with an inspection, including inspections conducted pursuant to a validly issued inspection warrant.

i. *Service of Notice of Violation.* Notice of violation shall be served on all owners, operators, and all other persons responsible for the operation and maintenance of the establishment, bulk refuse container storage lot, or bulk refuse container. Notice of violation shall be served on the operator of the donation collection bin. The notice of violation shall be served in the following manner:

1. Personally, by any person authorized to serve civil process; or

2. By any person authorized to serve civil process by leaving a copy of the notice of violation at the last and usual place of abode of the violator; or

3. By sending a copy of the order by registered or certified mail, return receipt requested, if within the Commonwealth; or

4. If the last and usual place of abode of the violator is unknown or outside the Commonwealth, by posting a copy of the notice of violation in a conspicuous place on or about the premises and by advertising it for at least three (3) out of five (5) consecutive days in one or more newspapers of general circulation within the City.

j. *Administrative Hearings.*

1. *Right to Hearing.* Any person upon whom a notice of violation has been served may request a hearing from the Inspectional Services Department by filing a written petition requesting a hearing on the matter with the Department within seven days after the day the notice of violation was served.

2. *Hearing Notice.* Upon receipt of a petition, the Inspectional Services Department shall inform the petitioner of the date, time, and place of the hearing in writing.

3. *Time for Hearing.* The hearing shall commence within thirty days after the day on which the notice of violation was served. The time period in which the cited violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held.

4. *Hearing of Petitioner.* At the hearing, the petitioner shall be given an opportunity to be heard, to present witnesses or documentary evidence, and to show why the notice of violation should be modified or withdrawn. An official record shall be kept of the hearing proceedings and made available to the petitioner upon request. Failure to hold a hearing within the time period specified herein shall not affect the validity of any notice of violation.

5. *Final Decision After Hearing; Failure to Comply with Final Order.*

(a) Within seven (7) days after the conclusion of the hearing, the Inspectional Services Department shall sustain, modify, or withdraw the notice of violation and shall inform the petitioner in writing of its decision and the reasons therefore. If the Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted in the original notice of violation or in the modification.

(b) If a written petition for a hearing is not filed with the Inspectional Services Department within seven (7) days after the notice of violation has been served, or if after a hearing the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute an additional offense.

k. *Judicial Appeals.* Any person aggrieved by a final decision of the Inspectional Services Department with respect to the denial of a site cleanliness license, the revocation of a site cleanliness license, the issuance of a notice of violation, or any other order issued under this subsection by the Inspectional Services Department, may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the Commonwealth.

1. *Penalties.*

1. *Failure to Obtain Site Cleanliness License.* If a person operates an establishment, bulk refuse container storage lot, donation collection bin or bulk refuse container without first obtaining a site cleanliness license, the Commissioner of Inspectional Services may seek an injunction from a court of competent jurisdiction prohibiting the operation of the establishment, bulk refuse container storage lot, donation collection bin or bulk refuse container until a site cleanliness license is secured.

2. *Failure to Comply With Terms of Site Cleanliness License.* If a licensee fails to comply with the terms of a site cleanliness license, the Commissioner of Inspectional Services may suspend the site cleanliness license, after an administrative hearing, and seek an injunction from a court of competent jurisdiction prohibiting the operation of the establishment, bulk refuse container storage lot, donation collection bin or bulk refuse container until the licensee proves to the court its compliance with the site cleanliness license. If a licensee fails to comply with the terms of the site cleanliness license three (3) times in the preceding twelve (12) month period, the Commissioner of Inspectional Services may suspend, cancel, or revoke the site cleanliness license after an administrative hearing. In the event of suspension or cancellation of the site cleanliness license, other municipal agencies issuing licenses will be so notified.

3. *Failure to Comply with Notice of Violation.* Any person who fails to comply with any notice of violation or other order issued pursuant to this subsection by the Inspectional Services Department, or its duly appointed agents or representatives, shall be fined one thousand (\$1,000) dollars per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. Notwithstanding, any person who operates a donation collection bin and fails to comply with any notice of violation or other order issued pursuant to this subsection by the Inspectional Services Department, or its duly appointed agents or representatives, shall be fined one hundred (\$100.00) dollars.

4. *Interference After Inspection Warrant Presented.* Any owner, occupant, or other person who

refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure, site, operation or premises where inspection is sought under this subsection after an inspection warrant has been obtained and presented in accordance with paragraph g, 3. of this subsection, shall be fined one thousand (\$1,000.00) dollars.

5. *Fines.* All fines and penalties assessed and collected under this subsection may be enforced pursuant to G.L. c. 40, section 21D.

m. *Site Cleanliness License Fee.* The fee for the site cleanliness license shall be fifty (\$50.00) dollars. In the case of operators of donation collection bins updating their site cleanliness license during the valid annual license period, the fee shall be ten (\$10.00) dollars.

n. *Term of License.* The term of each license shall be one (1) year. Annually on a date set by the Commissioner, all persons who operate or maintain food/beverage establishments, automotive establishments, bulk refuse container storage lots, donation collection bins and bulk refuse containers shall file, renew, or amend a Site Cleanliness Plan and obtain a new site cleanliness license. Operators of donation collection bins shall not be required to submit a Site Cleanliness Plan.

o. *Severability.* If any section provided for under this subsection shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of this subsection, which shall remain in full force and effect; and to this end the provisions of this subsection are hereby declared severable.

p. *Regulatory Authority.* The Commissioner of Inspectional Services shall have the authority to promulgate rules and regulations necessary to enforce this subsection.

q. *Delegation of Authority.* The Commissioner of Inspectional Services may delegate enforcement of this subsection to any City department authorized to enforce public safety, health, or environmental laws and regulations.
(Ord. 1999 c. 5; Ord. 2008 c. 15; Ord. 2010 c. 3)

9-9.9 Auto Shops Licenses.

No person shall operate or maintain an automotive establishment without first obtaining the auto shops license required by this section or unless the same is maintained in accordance with said license and any regulation promulgated hereunder.

a. *Definitions.* As used in this subsection, the following words and phrases shall have the meanings given in the following clauses. Where words and phrases are not defined in the following clauses such words and phrases shall have their ordinarily accepted meanings such as the context implies.

Automotive establishments. Auto body shop, car wash, garage, gasoline station, motor vehicle repair garage or lot, retail business establishment or other place for the sale, service, repair or installation of new or used motor vehicles, new or used motor vehicle parts, new or used tires or new or used motor vehicle accessories, whether or not the vehicles are serviced or parts or accessories are installed or used on or off the premises.

Cease and desist order. A serious enforcement action, which requires the wrongful party to halt production, service or a particular practice at its facility.

Class I, II, and III liquids. The Massachusetts State Board of Building Regulations and Standards has classified flammable and combustible liquids as Class IA, IB, IC, II, and III based on the temperature at which the liquids give off enough vapors to cause a fire hazard. The Occupational Safety and Health Administration (OSHA) has developed specific regulations regarding the storage of these liquids.

Combustible liquid. Any liquids having a flash point at or above one hundred (100) degrees Fahrenheit shall be known as Class II or Class III liquid. Combustible liquids shall be divided into the following classifications:

Class II: Liquids having flash points at or above one hundred (100) degrees Fahrenheit and below one hundred forty (140) degrees Fahrenheit.

Class IIIA: Liquids having a flash point at or above one hundred forty (140) degrees Fahrenheit and below two hundred (200) degrees Fahrenheit.

Class IIIB: Liquids having a flash point at or above two hundred (200) degrees Fahrenheit.

Contingency plan. A document setting out an organized, planned, and coordinated course of action to be followed in case of fire, explosion or other accident that releases toxic chemicals, hazardous waste or radioactive materials that threaten human health or the environment.

Cutting and welding. An auto body repair activity that can create noxious fumes and potentially release metal fines and sparks to the environment.

Engineering controls. Mechanical controls and equipment that are designed to protect worker health and safety (such as ventilation, alarms and filters).

Environmental, health, and safety (EHS) program. A program developed by a workplace or business to protect the environment and worker safety. An EHS program incorporates and implements procedures that help ensure chemicals and activities are managed in a safe and environmentally sound manner.

Environmental liability. The legal liability that a company or a person incurs if it owns or operates a shop that violates an environmental law or causes damage to the surrounding environment as a result of the company's or person's operations.

Flammable liquid. A liquid that has a flash point below one hundred (100) degrees Fahrenheit and has vapor pressure not exceeding forty (40) pounds per square inch (PSI) at one hundred (100) degrees Fahrenheit.

Hazard assessment. The review and evaluation of a shop's operations for potential health injuries or disease that may be caused by a chemical, process, or facility design and the conditions of

exposure under which such health effects are produced. This assessment is used to identify appropriate precautions that workers should take when performing certain shop activities.

Hazardous air pollutant (HAP). Air pollutants that are not covered by ambient air quality standards but which reasonably may be expected to cause or contribute to irreversible illness or death, according to the Clean Air Act Amendments. Such pollutants include: benzene, chromium compounds, hexane, methyl isocyanates, styrene, toluene, and vinyl chloride.

Hazard communication program. An OSHA-required program developed by a firm or workplace which identifies potential hazards associated with workplace activities and outlines procedures that will be undertaken by all employees to prevent injury and in the event of a chemical exposure or accident.

Hazardous waste. Waste generated by a business or residence that can pose a substantial or potential hazard to human health or the environment when improperly managed. These are defined as wastes that possess at least one of the four characteristics (ignitability, corrosivity, reactivity or toxicity) or wastes that are determined to be hazardous by definition and are listed as such by EPA or states.

Hazardous waste generator. Any facility that generates waste. Generators are regulated based on how much waste they generate.

Hazardous waste manifest. A multi-part form that is used to track each hazardous waste shipment from its point of generation to its ultimate disposal or treatment. The use of these forms is required under EPA or DEP hazardous waste requirements. These forms list the generator identification number, the name of the waste generator, all waste transporters, the name of the designated receiving facility, and the quality and type of hazardous waste being shipped.

Imminent threat or hazard. An activity or condition that poses an immediate danger to human health or the environment.

Lot. A parcel of land including land under water, whether or not platted, in single ownership, and not divided by a street.

Material safety data sheets (MSDS). Printed documents generated by chemical manufacturers that describe the contents of a material, its hazards, appropriate protection measures, and other health and safety and emergency information.

Oil-water separator. Also called a grease trap or gas trap. Used to separate industrial wastewater before it is discharged to a floor drain, sanitary sewer, industrial septic system or the ground. The separator physically removes the oil and particles from the wastewater because floating oil and particles will separate from the water in the unit. The sludge and oil must be collected and managed as a hazardous waste or oil waste.

Operation hours. The daily time period during which the licensed automotive establishment conducts and provides services to the public.

Personal protective equipment (PPE). Any health and safety equipment used to protect workers from potentially harmful materials or activities. *PPE* includes goggles, gloves, respirators, steel-toed boots, earplugs, and more.

Pollution Prevention (P2). The implementation of activities or practices that avoid the use and generation of environmentally harmful materials. Common P2 activities include reducing toxics use, using non-toxic alternatives, improving efficiency and therefore reducing waste, recycling or reusing materials and modifying operations to avoid the need for materials that are, or may become, environmentally harmful.

Reactive waste. Waste that is capable of reacting with other chemicals, is normally unstable, and can undergo violent changes with or without exploding. A reactive waste may respond violently with water and may generate toxic gas, vapor or fumes when mixed with water.

Reportable quantity (RQ). The amount of oil or hazardous material released to the environment that would require you to notify the proper authorities.

Satellite accumulation area. Area where hazardous waste is accumulated in a container until the container becomes full and is moved to a hazardous waste storage/accumulation area. Waste in this area must be at, or near, the point of generation and under the control of the process operator at all times.

Spray area. Any area where dangerous quantities of flammable or combustible vapors, mists, residues, dusts, or deposits are present due to the operation of spray painting or coating processes. According to NFPA Code 33, the spray area includes areas inside the spray booth or spray room, as well as ducts exhausting from spray-painting process. When spray areas are not confined adequately, the *spray area* may extend out to the entire room.

Spray booth. A structure which encloses a spraying operation to limit the escape of spray, vapor, and residue, and which conducts these materials to an exhaust system. A spray booth is fully enclosed, ventilated, and equipped with fire prevention and safety equipment. Generally a spray booth has three (3) walls and one (1) open side.

Toxic waste. A waste that can produce injury if inhaled, swallowed, or absorbed through the skin.

Violation. The operation or maintenance of any establishment governed by this section without an auto shops license; the failure to operate or maintain the same in accordance with a validly issued auto shops license; and the interference with an inspection conducted pursuant to a validly issued inspection warrant.

Volatile organic compounds (VOCs). Any organic compound that can alter the chemical makeup of the atmosphere through photochemical reactions. These compounds are called volatile because they can become a vapor at room temperature and pressure. Most paints and solvents used in auto body shops contain VOCs.

b. *Applicability; zoning review.* The auto shops license shall apply to all existing and future automotive establishments located within the City. After an auto shops license application has been submitted to the Inspectional Services Department, a complete plan review shall be conducted to ensure the

establishment is in compliance with the zoning code. If proper zoning is not met, the application must be submitted to the City of Boston Zoning Board of Appeal for a variance.

c. *License required for auto shops establishments.* No automotive establishment shall operate without first obtaining an auto shops license from the Commissioner of Inspectional Services. If the Commissioner of Inspectional Services determines that a submitted auto shops license application is accurate and adequate to keep the site free of hazardous waste or like material that is injurious to the public health, safety and environment, the Commissioner shall issue an auto shops license for the establishment. Performance of the activities scheduled in the auto shops plan shall be a condition of the license and nonperformance of the activities scheduled in the auto shops plan shall be a violation of the license and conditions of this section. All auto shops shall operate using best industry practices during the allowed hours of operation indicated in their licenses.

d. *Contents of license application.* A complete auto shops license application consists of a completed application form and an auto shops plan attached thereto. The auto shops application form shall be in a form approved by the Commissioner. An auto shops plan shall, at a minimum, include the following information:

1. The address where the establishment is located;
2. The name, address, and telephone number of the owner of the establishment;
3. The name, address, and telephone number of the operator of the establishment;
4. A weekly schedule detailing the time and days of the week of the operation hours for the automotive establishment;
5. A weekly schedule detailing the times and days of the week for cleaning and maintaining the establishment free of waste and hazardous material;
6. The name of a supervisor responsible for overseeing the cleaning and maintenance of the shop;

7. The name and address of the waste hauling company responsible for servicing the establishment;

8. The date, time, and frequency of service by the waste hauling company;

9. Any and all permits and/or licenses issued by the Department of Environmental Protection relating to the management, storage and disposal of solid wastes and hazardous materials and hazardous wastes generated, stored, or disposed on site;

10. Any and all permits and/or licenses issued by the Public Safety Committee ;

11. Any and all permits and/or licenses issued by the Boston Police Department;

12. Any and all permits and/or licenses issued by the Inspectional Services Department;

13. Any and all permits and/or licenses issued by the Public Works Department;

14. Any other information required by the Inspectional Services Department to ensure the site is maintained in a sanitary condition free of solid waste, hazardous materials or like material that is injurious to the public health, safety, and environment; and

15. Any and all permits and/or licenses issued by the Boston Public Health Commission.

e. *Posting requirements.* The auto shops plan and auto shops license shall be posted in a conspicuous place on the premises in public view.

f. *Inspections.*

1. *Authority.* In order to properly carry out their respective responsibilities under this section, and to ensure that the public health, safety and environment are protected from the hazards posed by unsanitary and unhealthy conditions, the Inspectional Services Department is authorized to enter, examine or survey at any reasonable time all establishments licensed hereunder.

2. *Systematic area inspections.* The Inspectional Services Department is authorized to

develop and adopt plans for systematic, periodic area-wide inspections of establishments required to obtain an auto shops license.

3. *Interference with inspector.* If any owner, occupant or person refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to the site, operation or premise where inspection is authorized by this section, the Inspectional Services Department may seek in a court of competent jurisdiction an inspection warrant that allows for the inspection of the site and surprises the owner, occupant or other person concerning the nature of the inspection, the scope of the inspection, and the justification for it and may seek the assistance of the police authorities in presenting said warrant.

g. *Violation.* The operation or maintenance of any establishment governed by this section without an auto shops license; the failure to operate or maintain the same in accordance with a validly issued auto shops license and auto shops plan; and the interference with an inspection conducted pursuant to a validly issued inspection warrant.

1. *Regulation.* No fine shall be issued under the auto shops license but shall be issued under the State Sanitary Code G.L. c. 111, sections 122, 123 and 125.

2. *Timeframe.* After an auto shops establishment has been cited, by the Commissioner of Inspectional Services or his or her designee, for failure to comply with a validly issued auto shops license the owner, occupant or person responsible for the operation or maintenance of the establishment shall have seven (7) days in which to comply, or, in an emergency, as determined by the inspector from Inspectional Services, twenty-four (24) hours.

3. *Fine schedule.* Citations for failure to comply with this section will be issued by ISD through a code enforcement ticket. A clearly defined and progressive fine schedule would result in the following:

1st Offense	\$100.00
2nd Offense	\$250.00
3rd and subsequent offenses	\$500.00

h. *Service of notice of violation.* Notice of violation shall be served on all owners, operators, and on all other persons responsible for the operation and maintenance of the establishment. The notice of violation shall be served in the following manner:

1. Personally, by any person authorized to serve civil process;

2. By any person authorized to serve civil process by leaving a copy of the notice of violation at the last and usual place of abode of the violator;

3. By sending a copy of the order by registered or certified mail, return receipt requested, if within the Commonwealth; or

4. If the last and usual place of abode of the violator is unknown or is outside the Commonwealth, by posting a copy of the notice of violation in a conspicuous place on or about the premises and by advertising it for at least three (3) out of five (5) consecutive days in one (1) or more newspapers of general circulation within the City.

i. *Administrative hearings.*

1. *Right to hearing.* Any person upon whom a notice of violation has been served may request a hearing from the Inspectional Services Department by filing a written petition requesting a hearing on the matter within the Department within seven (7) days after the day the notice of violation was served.

2. *Hearing notice.* Upon receipt of a petition, the Inspectional Services Department shall inform the petitioner of the date, time, and place of the hearing in writing.

3. *Time for hearing.* The hearing shall commence within thirty (30) days after the day on which the notice of violation was served. The time period in which the cited violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held.

4. *Hearing of petitioner.* At the hearing, the petitioner shall be given an opportunity to be heard, to present witness or documentary evidence, and to show why the notice of violation should be

modified or withdrawn. An official record shall be kept of the hearing proceedings and made available to the petitioner upon request. Failure to hold a hearing within the time period specified herein shall not affect the validity of any notice of violation.

5. *Final decision after hearing; failure to comply with final order.*

a. Within seven (7) days after the conclusion of the hearing, the Inspectional Services Department shall sustain, modify, or withdraw the notice of violation and shall inform the petitioner, in writing, of its decision and the reasons therefor. If the department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.

b. If a written petition for a hearing is not filed with the Inspectional Services Department within seven (7) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute an additional offense.

j. *Judicial appeals.* Any person aggrieved by a final decision of the Inspectional Services Department with respect to the denial of an auto shops license, the revocation of an auto shops license, the issuance of a notice of violation, or any other order issued under this section by the Inspectional Services Department, may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the Commonwealth.

k. *Penalties.*

1. *Failure to obtain an auto shops license.* If a person operates an automotive establishment without first obtaining an auto shops license, the Commissioner of Inspectional Services may seek an injunction from a court of competent jurisdiction prohibiting the operation of the establishment until an auto shops license is secured.

2. *Failure to comply with terms of the auto shops license.* If a licensee fails to comply with the terms of an auto shops license, the Commissioner of Inspectional Services may suspend the auto shops

license, after an administrative hearing, and seek an injunction from a court of competent jurisdiction prohibiting the operation of the establishment until the licensee proves to the court its compliance with the auto shops license. If a licensee fails to comply with the terms of the auto shops license three (3) times in the proceeding year, the Commissioner of Inspectional Services may suspend, cancel or revoke the auto shops license after an administrative hearing. In the event of suspension or cancellation of the auto shops license other municipal agencies issuing licenses will be so notified.

3. *Failure to comply with notice of violation.* Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Inspectional Services Department, or its duly appointed agents or representatives, shall be fined one thousand (\$1,000.00) dollars per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

4. *Interference after inspection warrant presented.* Any owner, occupant, or other person who refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure, site operation or premises where inspection is sought under this section after an inspection warrant has been obtained and presented in accordance with subsection (f)(3) of this section, shall be fined one thousand (\$1,000.00) dollars.

5. *Fines.* All fines and penalties assessed and collected under this section may be enforced pursuant to G. L. c. 40, section 21D and will remain the property of ISD.

1. *Auto shops license fee.* The fee for the auto shops license shall be one hundred (\$100.00) dollars. It is renewable on an annual basis and requires a compliance inspection for the license to be issued.

m. *Term of license.* The term of each license shall be one (1) year. Annually on the date set by the Commissioner, all persons who operate or maintain automotive establishments shall file, renew or amend an auto shops plan and obtain a new auto shops license.

n. *Severability.* If any subsection provided for under this section shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of this section, which shall remain in full force and effect; and to this end the provisions of this section are hereby declared severable.

o. *Regulatory authority.* The Commissioner of Inspectional Services shall have the authority to promulgate rules and regulations necessary to enforce this section.

p. *Delegation of authority.* The Commissioner of Inspectional Services may delegate enforcement of this section to any City Department authorized to enforce public safety, health, or environmental laws and regulations.
(Ord. 2006 c. 9)

9-9.10 Inspection of Pool Roofs and Ceilings.

a. *Definitions.* When used in this subsection, unless a contrary intention clearly appears, the following words shall have the following meanings:

Constructed swimming pool shall mean any swimming pool which has been built, erected or fabricated primarily with manufactured building materials including, but not limited to: cement, concrete, steel, tile, fiberglass or any combination thereto; and which possesses a water filtration, treatment, circulation or drainage system.

Enclosed swimming pool shall mean any constructed swimming pool which has above it any type of roof, ceiling or other covering.

Private swimming pool shall mean any constructed swimming pool which is used, or which is built for use, in connection with a family residence consisting of not more than three (3) individual residential units and available only to the family of the householder and his or her private guests.

Public and semi-public swimming pool shall mean any constructed swimming pool which is not a private swimming pool.

b. *Special Permit Required for Use or Operation of Public or Semi-Public Enclosed Swimming Pool.* No person or entity shall open, operate, or allow the use of a public or semi-public enclosed swimming pool unless he possesses a current and valid special permit from the Commissioner of the City of Boston Inspectional Services Department ("Commissioner").

The Commissioner shall issue such special permit only after he has received satisfactory proof of inspection by a registered engineering firm which attests to the structural soundness of the roof, ceiling or other covering over the pool. The Commissioner shall have the authority to evaluate the sufficiency of any such proof and to refuse to issue a special permit if, in his sole discretion, he determines such proof to be insufficient or such attestation to be inaccurate.

The Commissioner shall also have the authority to inspect the roof, ceiling or other covering of a public or semi-public enclosed swimming pool before issuing or renewing a special permit. The special permit required under this section is in addition to, and not in lieu of, any other permits or licenses which may be required by the Inspectional Services Department or other public authorities with respect to swimming pools.

c. *Term of Permit.* A special permit shall expire one year from the date of issuance and may be renewed on the same terms and in the same manners as the original issuance.

Any person or entity who continues to operate or allow the use of a public or semi-public enclosed swimming pool in violation of this subsection shall be assessed a fine pursuant to G.L. c. 40, s. 21 in the amount of twenty-five (\$25.00) dollars for each day of non-compliance. The Commissioner is authorized to impose such a fine and to pursue any other available legal or equitable remedies for violation of this subsection.

(Ord. 1989 c. 11 § 1)

9-9.11 Window Falls Prevention Program in the Department of Health and Hospitals.

a. Definitions.

For the purposes of this subsection, the following terms shall have the following meanings:

Child shall mean a person age six (6) years or under.

Board shall mean the Board of Health and Hospitals.

Department shall mean the Department of Health and Hospitals.

Installation shall mean the proper equipping of windows with window safety guards in accordance with regulations issued by the Board of Health and Hospitals.

Owner shall mean a person, who alone or severally has legal titles, or has charge or control in any capacity including, but not limited to, agent, executor, administrator, trustee or guardian; or any officer or trustee of a real estate trust or association of unit owners.

Tenant shall mean a lessee, or other regular occupant of a dwelling unit with or without a lease.

Window safety guard shall mean a device designed to restrict passage or access through a window of a child age six (6) or under.

b. *Established.* There shall be a Window Falls Prevention Program established within the Department of Health and Hospitals. The purpose of said program shall be as follows: educating the public about the danger to children, age six (6) years and under, of falling from windows; and encouraging the voluntary installation by owners of window safety guards on windows in dwellings occupied by children age six (6) years and under.

c. *Information and Assistance to Public.* The Program shall conduct citywide education and outreach efforts promoting awareness about the dangers to children, age six (6) years and under of falling from open or otherwise unprotected windows. Information and technical assistance shall be made available to the public on the steps and devices that may mitigate this serious problem. The Program shall work with any and all existing agencies and departments involved with children in its outreach efforts. The Window Falls Prevention Program will also encourage owners to voluntarily install window safety guards on windows in the dwellings occupied by children age six (6) years and under.

(Ord. 1994 c. 19 §§ 1-3)

9-9.12 Inspection of Exterior Walls and Appurtenances of Buildings Requiring Periodic Inspection.

a. Definitions.

Exterior walls and appurtenances shall mean (1) any exterior wall of a building over seventy (70') feet in height, or classified as a high rise structure, or (2) any exterior wall of an unoccupied building, of over thirty-five thousand (35,000) cubic feet and excluding residential buildings that are classified as three family, two family, or single family except as required by the Commissioner.

9-9.13 Regulating Access to Roof Areas of Buildings with Residential Units.

a. *Purpose.* It is the intent of this section to protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by (i) discouraging the inappropriate use of flat roof areas of residential buildings and (ii) regulating the use of and/or assembly of persons on flat roof areas and/or roof decks.

The Commissioner of the Inspectional Services Building Department has enforcement authority pursuant to M.G.L. c. 143, s.3, the State Building Code, and the Zoning Code of the City of Boston.

b. *Definitions.* When used in this section, unless a contrary intention clearly appears, the following terms shall have the following meanings:

City shall mean City of Boston.

Door alarm shall mean a device which causes an alarm to sound whenever the door or hatchway to which it is attached is opened, provided that said device does not substantially impede the opening and closing of the door or hatchway. Any such device which can be temporarily deactivated through the use of a key, code, or other such measure, shall be considered to be within this definition, notwithstanding the fact that it can be so deactivated, provided that the device is designed to automatically reactivate itself within a reasonable time after the deactivation event takes place. Signage on or near the device will warn users of the presence of the alarm.

Included structure shall mean any residential structure with a roof deck as defined below; not including owner occupied one or two family structures.

Owner shall mean any person(s) or entity that owns a building in the City of Boston, The rights and duties of the owner hereunder shall also be the rights and duties of any person(s) or entity that manages or controls the building.

Roof access point shall mean any doorway, passageway, or staircase through which access to any part of the roof of the building is provided that said door, passageway, or staircase connects to a portion of the interior of the building to which one (1) or more occupants has unimpeded access.

Roof deck shall mean a structure built on the roof of a building that is used for gardening, sunbathing, and other passive recreational purposes. Flat roofs, or limited areas thereof, which do not have a structure built for such purposes but are accessible through a roof access point and could nevertheless be used for such purposes shall be included in this definition.

c. *Roof Deck Permits.* Roof deck permits shall be obtained by an owner by submitting a building permit application to the Inspectional Services Department. The application shall contain any and all required plans, including but not limited to, a land survey, framing plans, and a report of a structural and safety evaluation performed and prepared by an architect or structural engineer registered/certified in the Commonwealth of Massachusetts; the structural and safety evaluation shall consider and evaluate the structural capacity of the roof and the safety features of the roof/roof deck including but not limited to handrails, guardrails, lighting, and manner(s) of egress as may be required by the State Building Code or by the regulations of the Inspectional Services Department.

Notwithstanding the foregoing, no roof deck permit shall be required where:

1. The roof deck is a flat roof, or limited area thereof, which does not have a structure built for such purpose, and;

2. The owner has either secured the roof access point(s) with a locking device(s) to the extent permitted by law or has installed a door alarm.

No roof deck may be issued a permit unless all legal requirements are met, such as zoning approval and landmark approval, as necessary; the applicant shall attach to the application copies of such approvals, if any.

No person may occupy, stand on, sit on, or use a roof deck that has not been issued a permit by the Inspectional Services Department (except for performing maintenance). No person may encourage, allow, or suffer an assembly of persons on a roof deck that has not been issued a permit by the Inspectional Services Department. Upon discovery of use or occupancy of a roof deck that does not have proof of a valid permit issued by the Inspectional Services Department, an officer of the Boston Police Department or an inspector of the Inspectional Services Department shall order the roof deck vacated until the process outlined in section c. is complete.

Inspections. The Inspectional Services Department shall have the discretion to establish the procedure by which compliance is determined, including but not limited to, determining when, how and by which professionals such inspections are to be made, including the certified documentation that is to be required for compliance, provided that their policies are reasonably calculated to ensure that every included structure in the City is inspected for compliance at least once every five (5) years.

d. *Roof Deck Complaints.* The Commissioner of Inspectional Services Department or his designee shall follow up on any credible complaint, to be defined by the Commissioner of the Inspectional Services Department, that a structure is being used as a roof deck in violation of this section. Within three (3) business days of receipt of a complaint under this section, the Inspectional Services Department shall determine whether or not a permit has been issued for use as a roof deck. Upon investigation, if:

1. No roof deck permit has been issued and the building is not otherwise in compliance as described in section c, then a Building Inspector shall, by means of a building code violation order the owner to come into compliance by either applying for or securing a permit for a roof deck or otherwise complying into compliance by installing a locking

device to the extent permitted by law or door alarm as described in section c.

If the owner does not come into compliance within thirty (30) days after the violation is issued, the Commissioner of Inspectional Services Department may file a complaint in Housing Court. Violations are written to the owner in the form of a building and/or zoning code violation and shall be subject to the penalties and fines of such building code and/or zoning code in addition to any penalties and fines authorized by this section.

2. A valid roof deck permit has been issued and/or the roof deck is in compliance with this section (as described in section c.) and other existing laws, then the matter may be turned over to the Boston Police Department for further investigation of the complaint.

3. No roof deck permit has been issued and the building is not otherwise in compliance as described in section c., and a second or subsequent credible complaint is received that a structure is being used as a roof deck in violation of this section, then the owner will be ordered to come into compliance as described in section d. 1. and simultaneously issued a violation as described in section d. 1.

e. *Enforcement and Penalties.* Each and every violation of this section or any regulations adopted hereunder is punishable by a fine of three hundred (\$300.00) dollars for the first offense and five hundred (\$500.00) dollars for each subsequent offense. A violation of this section shall not be deemed to create any presumption of negligence by an owner.

f. *Regulatory Authority.* The Commissioner of the Inspectional Services Department and the Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce this section.

g. *Severability.* If any provision of this section shall be held to be invalid by a court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

h. *Implementation.* The provisions of this section shall be effective ninety (90) days after passage.
(Ord. 2007 c.12)

b. *Inspection Reports.* Every exterior wall defined above shall be inspected in the case of an occupied structure at least once every five (5) years and in the case of an unoccupied structure at least once a year. The inspection shall be made and a report thereon prepared by a registered architect or engineer and shall be filed with the Commissioner together with a fee in the amount of one hundred (\$100.00) dollars within thirty (30) days of the inspection.

The Commissioner shall issue an exterior wall certificate only after having received satisfactory proof of inspection and the inspection report of the architect or engineer reports a safe condition. And no structure referenced in said section shall be occupied without such certificate. Prior to issuing a certificate the Commissioner may in the Commissioner's discretion require inspection by the Department at a charge of one hundred (\$100.00) dollars which must be paid prior to issuance of the certificate.

The inspection report shall be a written report by the architect or engineer certifying the results of the examination clearly documenting the condition of the exterior walls and appurtenances thereto. The report shall include a record of all significant deterioration, unsafe conditions and movement observed as well as a statement regarding the water tightness of the exterior surfaces. Such report must be signed by, or bear the professional seal of, the registered architect or engineer.

Upon the filing of an inspection report indicating the existence of an unsafe condition, the Commissioner shall affix the appropriate violation on the structure and the owners, or agent, shall immediately commence repairs to remedy the violation.

The exterior wall certificate required under this section is in addition to, and not in lieu of, any other permits or licenses which may be required by the Inspectional Services Department or other public authority concerning occupation or operation of the building or structure.

Any person or entity being the assessed owner (which shall include any trustee of a trust) or being the person in control of a structure requiring an exterior wall certificate who shall fail to have the structure inspected or fail to file the inspection report with the

required fee or who shall suffer occupancy of such a structure without a valid certificate shall be punished by a fine of one hundred (\$100.00) dollars for each day that such violation shall continue. This fine may be disposed of under the terms of G.L. c. 40, sec. 21D or in a criminal action.
(Ord. 1995 c. 8 § 6)

9-10 ARSON PREVENTION COMMISSION.

9-10.1 Composition of Commission.

There shall be in the City a Commission, known as the Arson Prevention Commission, consisting of the following officials of the City of Boston: the Fire Commissioner, the Police Commissioner, the Commissioner of Inspectional Services, the Collector/Treasurer, Commissioner of Real Property, and the Chairperson of the City Council's committee dealing with the issue of arson, all serving ex officio. There shall be nine (9) Commissioners appointed by the Mayor. Eight (8) Commissioners appointed by the Mayor shall be residents of the City of Boston who live in areas affected by arson and have knowledge or expertise in the problem of arson. Of the nine (9) Commissioners appointed by the Mayor, one Commissioner shall be a representative of the Insurance industry that specifically deals with fire insurance for low/moderate income housing and knowledgeable about the problem of arson within the City of Boston, who need not be a resident of the City of Boston. Ex officio commissioners, or their designees, and mayoral appointed commissioners shall have the power to attend any meetings or hearing and to vote on any commission matter.

Mayoral appointed Commissioners shall serve a term of two (2) years.

The Commission shall elect one of its members as Chairman and another as Vice-Chairman to serve in these capacities for the term of one year. The Commissioners shall hire a Director, who shall not be a member of the Commission, and said Director shall be qualified by his or her knowledge of the activities and methods used in arson prevention programs. The Director shall have the title of Executive Director and shall be paid a salary established by the Mayor. The

Commissioners shall serve without compensation, and shall be deemed special municipal employees for the purposes of Chapter 268A of the General Laws.

(Ord. 1983 c. 13; Ord. 1984 cs. 6, 9; Ord. 1987 c. 7 § 1; Ord. 1988 c. 10 §§ 1, 2; T9 [450])

9-10.2 Powers and Duties.

The Commission shall meet on a regular basis; shall study the problem of arson in the City; shall work with neighborhood organizations to implement remedies arrived at by studying the problem of arson in the City; shall from time to time, and at least twice a year on July 1 and January 1, make written reports to the Mayor and City Council assessing incidents of arson on a neighborhood basis and recommend means to prevent arson; shall conduct independently or in conjunction with appropriate agencies such programs relating to the prevention of arson in the City as the Commission deems necessary; and shall propose new programs as the Commission deems feasible in view of the particular program and the needs of the City in regard to arson prevention.

The Director shall be the executive officer of the Commission and shall have such powers to perform such duties as the Commission shall from time to time determine. The Director shall appoint, with Commission approval, other such personnel as the Commission may from time to time deem expedient. The Director and Commissioners, for the purposes of obtaining information under Chapter 446 of the Acts of 1978, shall be considered Public Safety Officials. The Director is empowered, on behalf of the Commission, to seek and make application for any and all State and/or Federal funds that are or become available for a municipality to fund arson prevention activities. The Commission shall monitor compliance with Chapter 446 of the Acts of 1978 and any other applicable State statute which affect arson prevention in the City of Boston, shall advise and suggest administrative and legislative remedies to deal with the prevention of arson and shall establish a community based arson prevention program.

(Ord. 1983 c.13; Ord. 1984 c. 6)

9-10.3 Other City Agencies.

The services of all City Departments, Agencies and other Commissions shall be made available to the Commission for the purposes of effectuating the

provisions of this ordinance. The Head of any Department, Agency or other Commission shall furnish information in the possession of such Department, Agency, or other Commission when the Commission so requests and where such information relates to the duties of the Commission.

(Ord. 1983 c. 13)

9-10.4 Rules and Regulations.

The Commission shall promulgate such rules and regulations consistent with the provisions of this ordinance and the laws of the commonwealth as shall further the provisions of this ordinance. The Commission shall adopt rules of procedure for conducting hearings.

(Ord. 1983 c. 13; Ord. 1984 c. 6)

9-10.5 Severability.

The provisions of this ordinance are severable and if any provision shall be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance, which shall remain in full force and effect.

(Ord. 1983 c. 13)

9-11 SECURITY IN ELDERLY/HANDICAPPED HOUSING DEVELOPMENTS.

9-11.1 Definitions.

For the purpose of subsection 9-11.2 through 9-11.6, the following definitions shall apply:

Building entrance shall mean an entrance providing access from outside the building or from an entry vestibule to an interior corridor, lobby, or stairway which leads to an individual dwelling unit.

Building permit shall mean a permit granted by the Inspectional Services Department for the construction of any building or for any substantial alteration or addition thereto, as defined in Section 1 of Chapter 143 of the General Laws of the Commonwealth of Massachusetts.

Dwelling unit shall mean the part of a building that is used as a home, residence, or sleeping place by one or more persons who maintain a household.

Elderly person shall mean any person who is at least sixty-two (62) years of age.

Handicapped person shall mean any person who is physically handicapped as defined in Section 13A of Chapter 22 of the General Laws of the Commonwealth of Massachusetts or mentally handicapped as defined by 29 U.S.C. Section 706(7)(b).

Elderly/handicapped multi-family housing development shall mean any building, structure, development, or complex of ten (10) or more dwelling units under common ownership, rented or offered for rent for dwelling purposes within the City of Boston, which is specifically designed or designated for rental by elderly or handicapped persons.

Landlord shall mean the individual who holds title to any elderly/handicapped multi-family housing development including, without limitation, a partnership, corporation, or trust. For purposes of this section, the rights and duties of the landlord hereunder shall be the obligation of anyone who manages, controls, or customarily accepts rent on behalf of the landlord.

Safety officer shall mean a police officer of the City of Boston, or a special police officer appointed pursuant to applicable law to protect persons or property in public or subsidized housing, or a person employed as a guard or investigator by a duly licensed watch, guard, or patrol agency, as defined in Section 22 of Chapter 147 of the General Laws of the Commonwealth of Massachusetts.

Security plan shall mean a plan for providing security for the tenants of an elderly/handicapped multi-family housing development, based upon a crime prevention survey, which meets the criteria set forth in subsection 9-11.3 and which has been developed according to the process set forth in subsection 9-11.4.

Tenant shall mean a tenant, subtenant, lessee, sublessee, or other person, entitled under the terms of a rental housing agreement to the use and occupancy

of any dwelling unit in an elderly/handicapped multi-family housing development.
(Ord. 1989 c. 4 § 1 [500])

9-11.2 Security Requirements for Elderly/Handicapped Multi-Family Housing Developments.

The Commissioner of the Inspectional Services Department shall promulgate regulations, pursuant to his authority under Section 127A of Chapter 111 of the General Laws, and consistent with the requirements of the State Sanitary Code and this section. These regulations shall take effect within ninety (90) days of the effective date of this section, and shall require that every landlord of an elderly/handicapped multi-family housing development, within thirty (30) days of receipt of notice from the Commissioner, either elect to

a. Provide safety officers for such development on a twenty-four (24) hour per day, seven (7) day per week basis. The safety officers' duties shall include, without limitation, the monitoring of all building entrances in such elderly/handicapped development; or

b. Provide security measures as identified in a security plan which has been developed and approved in compliance with the provisions of subsections 9-11.3 and 9-11.4.

Thereafter, once a landlord has elected to either provide safety officers as provided above or to provide a security plan, the landlord shall have the continuing duty to provide such officers or to provide the security measures identified in the security plan. A landlord may choose, after initially electing one of the above alternatives, to switch to the other with approval of the Inspectional Services Department, but must continue to provide safety officers or the security measures mandated by the security plan pending such approval. The landlord's submission seeking approval for a switch in alternatives must be carried out in accordance with subsections 9-11.3 and 9-11.4. Failure to continue to provide safety officers or the security measures mandated by a security plan shall constitute a violation of this section and shall be subject to enforcement under subsection 9-11.6.

The Commissioner shall, within ninety (90) days of the effective date of this section, identify all elderly/handicapped developments within its scope. In identifying these developments, the Commissioner shall consult with the Commissioner for the Elderly. Thereafter, the Commissioner shall notify all landlords of elderly/handicapped developments of the operation of this section, and of their duty to elect to either provide safety officers on a 24-hour basis, or to request a crime prevention survey. Such notices shall be sent out on a phased basis so that, within a twelve-month period, all elderly/handicapped developments within the City of Boston shall have received such notices. Copies of this section and the Commissioner's regulations shall be provided at no cost whenever an applicant seeks a building permit for an elderly/handicapped housing development covered by this section.

If, within thirty (30) days after receipt of a notice under this subsection or a notice of non-compliance under subsection 9-1.6 for failure to provide security officers or have an approved security plan, a landlord has requested a crime prevention survey by the Boston Police Department, triggering the first stage in the provision of a security plan, the landlord shall be relieved of the responsibility of providing safety officers as required above unless and until a security plan has been approved.

(Ord. 1989 c. 4 § 1 [501])

Editor's Note:

This section was adopted by Ordinances of 1989, Chapter 4, on February 8, 1989, and approved by the Mayor on February 27, 1989.

9-11.3 Criteria for a Security Plan.

A security plan shall be based upon a crime prevention survey which has been completed by the Boston Police Department, and shall incorporate all of the elements recommended by the crime prevention survey for the adequate protection of the tenants of the elderly/handicapped development, except as otherwise provided in subsection 9-11.4. Each crime prevention survey shall include both findings as to the security needs of the tenants of the development and recommendations as to how such needs shall be met through existing or new security measures, such as lighting, locks, safety officers, security stations, security systems, or other equipment, personnel, or programs. Each survey shall also include a one-page

summary, on official Police Department stationery, itemizing the elements recommended.

A new crime prevention survey must be performed every three (3) years. If a building permit is required by the Inspectional Services Department for substantial structural changes in the building entrances to an elderly/handicapped development before the expiration of the three-year period since a survey was last performed, a new crime prevention survey must be performed upon submission of the building permit application.

The landlord shall be responsible for arranging for a crime prevention survey by the Boston Police Department, and shall notify the Commissioner of the Inspectional Services Department in writing at the same time that he requests such survey from the Boston Police Department. No fee shall be assessed to the landlord for such survey. The Boston Police Department shall carry out such crime prevention survey and provide a copy of the same to the landlord and the Inspectional Services Department upon completion, as provided for in subsection 11-1.7 of The City of Boston Code as amended. Such surveys shall be carried out on a phased basis parallel to that of the notices sent under subsection 9-11.2 by the Commissioner of Inspectional Services. Such surveys shall be completed within thirty (30) days of receipt of the landlord's request for a crime prevention survey. (Ord. 1989 c. 4 § 1 [502])

9-11.4 Process for Approval of a Security Plan.

a. *Approval of Security Plan Incorporating Security Measures Recommended by Crime Prevention Survey.* Within thirty (30) days of the receipt of the crime prevention survey, the landlord shall prepare a security plan for approval by the Commissioner of the Inspectional Services Department. Such plan shall be deemed to be in full compliance with this section provided that: (1) the security plan mandates, at the very least, the provision of the security measures recommended in the crime prevention survey; and (2) the tenants have not articulated security needs which are not adequately addressed by the survey or the plan. If the crime prevention survey indicates that no security measures are needed additional to those already in effect at the development, the security plan shall be deemed to be sufficient so long as the

landlord, in such plan, agrees to keep in effect all existing security measures. In all cases, the tenants must be given the opportunity to present their views to the Commissioner of the Inspectional Services Department at a hearing before the plan is accepted.

Following the posting of notice to tenants as provided in paragraph c below, the landlord shall submit the plan to the Commissioner of the Inspectional Services Department for approval. The Commissioner shall notify all affected parties of the date of the hearing on the plan. Such hearing shall take place within thirty (30) days of the Commissioner's receipt of the plan, and notice of the hearing date shall be given to all parties at least ten (10) days in advance of the hearing date. Notice of the hearing date shall be given to any tenants organization which exists in the development and shall be posted by the landlord at the development in a conspicuous location. At the hearing, the landlord and the tenants shall be given an opportunity to be heard, to present witnesses, or to submit documentary evidence, as to why the security plan should be approved or modified.

Following the hearing, the Commissioner shall approve or modify the security plan, consistent with the recommendations of the crime prevention survey and the security needs articulated by tenants. In reviewing the adequacy of the plan and reaching a decision thereon, the Commissioner shall consult with the Boston Police Department, as provided for in subsection 11-1.7 of the City of Boston Code, as amended. The Commissioner's approval or modification shall be in the form of a written decision, and shall be furnished to all affected parties within ten (10) days of the hearing date.

b. *Petition for a Modified Security Plan; Approval Process.* Within thirty (30) days of receipt of the crime prevention survey, if the landlord of an elderly/handicapped multi-family development disputes the need for any of the specific security measures recommended by the crime prevention survey, or the method or the timetable for carrying out security measures, based on the fiscal or contracting constraints that apply to the particular development, or if the landlord and/or tenants of an elderly/handicapped multi-family development believes that the additional security measures mandated by the crime prevention survey are such as

to be cost-prohibitive, given the economic circumstances of the tenants of the development and the inability of the landlord and/or the tenants to obtain sufficient funding, equipment, or services to cover the costs of such additional measures despite best efforts, as provided for in subsection 9-11.5, then the landlord and/or tenants can petition the Commissioner of the Inspectional Services Department for permission to submit a modified security plan which does not encompass all of the security measures mandated by the crime prevention survey. Such petition shall be accompanied by a proposed security plan. A landlord may only claim that the elements mandated by the crime prevention survey are cost-prohibitive if the increased costs must be passed along to the tenants of the development and absorbed by the tenants in the tenants' share of the rent. In all cases under this subsection, the tenants must be given the opportunity to present their views to the Commissioner of the Inspectional Services Department at a hearing before the petition and plan is accepted.

Following the posting of notice as provided in paragraph c., below, the landlord shall submit the petition for a modified security plan to the Commissioner of the Inspectional Services Department for approval. The Commissioner shall notify all affected parties of the date of the hearing on the petition. Such hearing shall take place within thirty (30) days of the Commissioner's receipt of the petition, and notice of the hearing date shall be given to all parties at least ten (10) days in advance of the hearing date. Notice of the hearing date shall be given to any tenants organization which exists in the development and shall be posted by the landlord at the development in a conspicuous location. At the hearing, the landlord and the tenants shall be given an opportunity to be heard, to present witnesses, or to submit documentary evidence, as to why the petition should be approved or modified.

If a landlord submits a petition for a modified security plan, the landlord shall have the burden to show how any of the specific security measures recommended in the crime prevention survey are unnecessary, or, given the fiscal or contracting constraints particular to the development, how changes are needed in the method or timetable for implementation of security measures. In the event that a party claims that the costs of the additional security measures are cost-prohibitive, the landlord shall state

what the estimated costs of the security measures are. In such cases, the landlord shall also substantiate his/her current and projected operating expenses and revenues, and shall show what efforts s/he has made to otherwise cover the costs, as provided in subsection 9-11.5.

Following the hearing, if the Commissioner of the Inspectional Services Department finds that:

i. Any of the specific security measures recommended in the crime prevention survey are unnecessary to meet security needs at the particular development;

ii. Within the fiscal or contracting constraints that apply to the particular development, the landlord's proposed plan will provide a reasonable method or timetable for meeting security needs; or

iii. The costs required to undertake the improvements mandated by the crime prevention survey as such as to make a security plan cost-prohibitive, the Commissioner shall either approve the petition for a modified security plan or make such modifications to the plan as are necessary.

In ruling on a petition where it is claimed that a security plan is cost-prohibitive, the Commissioner shall be guided by the principle, consistent with the security objectives articulated in the crime prevention survey, that the impact on tenants' rents should be minimized so that the cost of additional security measures will not have the likely effect of displacing elderly/handicapped tenants due to the excessive rent increases. In such cases, the Commissioner shall consider reasonable alternatives to the security measures called for by the crime prevention survey.

In reviewing the adequacy of the plan and reaching a decision thereon, the Commissioner shall consult with the Boston Police Department, as provided for in subsection 11-1.7 of the City of Boston Code, as amended. Such approval or modification shall be in the form of a written decision, and shall be furnished to all affected parties within ten (10) days of the hearing date.

c. *Tenant Participation Requirements In Conjunction with Submission of Security Plans.* The landlord shall post a notice that s/he intends to submit a security plan or a petition for a modified security plan to the Inspectional Services Department in a conspicuous location within the development. This notice shall be in a form established by the Commissioner of the Inspectional Services Department. Such notice shall inform the tenants of the development that they may review and obtain copies of the landlord's security plan upon request, as well as the materials in support of the plan, and shall also notify them of their right to participate in hearings at the Inspectional Services Department concerning such plan. Such notice shall first be posted at least ten (10) days prior to the submission of the security plan or petition to the Inspectional Services Department under paragraph a. or b. above. Such notice shall remain posted until such time as the Inspectional Services Department has made its final determination. It shall be deemed a violation of this section, enforceable under subsection 9-11.6, for any landlord to fail to post such a notice in a conspicuous location or to intentionally or willfully cause such notice to be defaced, destroyed, or removed. If such a notice is defaced, destroyed, or removed by a third party, it shall be the landlord's obligation to immediately post a copy of the original notice.

If any tenant requests a copy of the proposed plan, it shall be provided by the landlord to the tenant, together with:

i. A copy of the findings and recommendations of the crime prevention survey (or the official Police Department summary);

ii. If applicable, a summary of the landlord's reasons for disputing the findings and recommendations of the crime prevention survey, for seeking alterations in the method or timetable for implementation of security measures, or for claiming that the additional security measures mandated by the crime prevention survey are cost-prohibitive, including a summary of the financial alternatives that s/he has explored to cover costs.

Such notice shall be required, and such documents shall be available upon request, even if the survey and the plan do not recommend additional security measures.

In developments that are subject to tenant participation requirements under 760 C.M.R. §6.00, 24 C.F.R. §245, or other applicable law and where there is a tenants organization, the landlord shall provide a copy of the security plan or petition and the above documents to such tenants organization at least ten (10) days in advance of the submission of the plan or petition to the Inspectional Services Department. If the tenants participating in the organization vote that there are deficiencies in the security plan or petition, the landlord shall be required to meet with the tenants organization, at the tenants organization's request, to discuss the tenants' concerns and attempt in good faith to resolve such concerns. The tenants organization shall give written notice to the landlord, within the ten (10) day period after receipt of the plan and survey, of its desire to have such a meeting. The landlord shall meet with the tenants organization within two (2) weeks of receipt of the tenant organization's notice. To the extent that such meetings or discussions delay the finalization of the security plan, the landlord shall be permitted to submit the security plan late, but in no event later than thirty (30) days from the date of the tenant meeting. The landlord shall give notice to the Commissioner of the Inspectional Services Department of any requests received for tenant meetings. The Commissioner shall not schedule any hearing on the security plan until after such tenant meetings have taken place, and the 30-day period for the Commissioner to hold a hearing after receipt of a plan shall be extended in such event. Failure of the tenants or the tenants organization to request a meeting with their landlord to discuss the plan shall not be deemed to constitute a waiver of the tenants' right to approve, oppose, or seek modifications in a plan or petition at the hearing before the Commissioner.

(Ord. 1989 c. 4 § 1 [503]; Ord. 2010 c. 12)

9-11.5 Protection from Rent Increases.

Additional costs incurred by landlords in complying with the requirements of this section and implementing security measures additional to those already provided or required in such developments shall not be passed on to elderly or handicapped tenants of elderly/handicapped multi-family housing developments unless the landlord has exhausted all reasonable alternatives to the passing on of such costs. In pursuing such alternatives, the landlord of an elderly/handicapped multi-family housing development shall use best efforts to seek and obtain

such funding, grants, or donations of funds, equipment, or services, as may lessen or eliminate such additional costs. Such reasonable alternatives shall also include the seeking of relief from cost-prohibitive security measures as provided for under subsection 9-11.4b. The costs incurred in complying with the requirements of this section and implementing security measures additional to those already provided or required may be considered to be reasonable or necessary operating or capital expenses in any application for additional subsidy or financing from the United States, the Commonwealth of Massachusetts, or any authority created under the laws thereof, as well as under Chapter 34 of the Ordinances of 1984, as amended.

(Ord. 1989 c. 4 § 1 [504])

Editor's Note:

Chapter 34 of the Ordinances of 1984 has been codified as subsections 10-2.1 through 10-2.10 and 10-2.14 through 10-2.23.

9-11.6 Enforcement.

The Commissioner of the Inspectional Services Department shall notify the landlord of an elderly/handicapped multi-family housing development in the event the development is found to be in noncompliance with the provisions of this section and shall order compliance. Said landlord shall have thirty (30) days from the date of notification in which to achieve compliance with the Commissioner's order. Upon the expiration of the thirty (30) day period, the landlord of a housing development still in violation of the order shall be subject to a fine of one hundred fifty (\$150.00) dollars. Each day's failure to comply with the order thereafter shall constitute a separate violation of the Commissioner's order. Orders shall be enforced in a manner similar to that provided for enforcement of orders under Article II of the State Sanitary Code. Tenants and/or tenant organizations of elderly/handicapped multi-family housing developments shall have the right to request investigation by the Commissioner of the Inspectional Services Department if they believe that their landlords have failed to comply with the provisions of subsection 9-11.1 through subsection 9-11.5 and shall have the right to request a hearing from the Commissioner in a manner similar to that provided in G.L. c. 111 §127B if the Commissioner fails to respond to a request for investigation, if the Commissioner fails to make findings of non-compliance following an investigation, or if the

Commissioner fails to issue orders upon a finding of non-compliance.
(Ord. 1989 c. 4 § 1 [505])

9-11.7 Non-Liability of the City of Boston.

The provisions of this section shall not be construed to establish any duty on the part of the City of Boston greater than the City's general public duty to protect its citizens' health, safety, security, and well-being. No determination by the Commissioner of the Inspectional Services Department or the Boston Police Department as to the adequacy of a landlord's security measures shall be construed as a warranty or guarantee of such security, and the sole responsibility for insuring that security measures are adequate to protect tenants from foreseeable harm or risk shall rest and remain with the owner of such property.
(Ord. 1989 c. 4 § 3)

9-11.8 Severability.

The provisions of this section are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions which shall remain in full force and effect.
(Ord. 1989 c. 4 § 4)

9-12 SECURITY FOR STUDENT HOUSING.

9-12.1 Definitions.

For the purposes of subsection 9-12.1 through 9-12.5 hereafter, the following definitions shall apply:

Crime prevention survey shall mean a survey conducted by the Boston Police Department identifying the security needs of the occupants and neighbors of student housing and making recommendations as to how such needs shall be met through existing or new security measures, such as lighting, locks, safety officers, resident managers, security stations, security systems, or other equipment, personnel, or program. See also City of Boston Code, Section 11-1, as amended.

Dwelling unit shall mean as defined in subsection 9-11.1.

Landlord shall mean the individual who holds title or control of any student housing including, without limitation, a partnership, corporation, condominium association, or trust. For purposes of this section, the rights and duties of the landlord hereunder shall be the obligation of anyone who manages, controls, or customarily accepts rent on behalf of the landlord.

Neighbors of student housing shall mean persons who reside or operate businesses within the same precinct as the student housing involved.

Occupants of student housing shall mean persons who rent or occupy buildings, structures, developments, or complexes which come within the definition of student housing, regardless of whether such persons are themselves students of undergraduate institutions.

Security plan shall mean a plan for providing security for the occupants and neighbors of student housing, based upon a crime prevention survey, which meets the criteria set forth in subsection 9-12.3 and which has been developed in accordance with the process set forth in subsection 9-12.4.

Student housing shall mean any building, structure, development or complex of one or more dwelling units under common ownership or control, rented or offered for rent for dwelling purposes within the City of Boston, which is rented to or occupied by persons who are students in undergraduate institutions, provided, however, one (1), two (2), and three (3) family properties which are occupied by all of the legal and beneficial owners of the property shall be exempt from this section; provided further, however, that in buildings, structures, developments or complexes consisting of less than twenty (20) dwelling units, fifty (50%) percent or more of such dwelling units must be rented to or occupied by persons who are students in undergraduate institutions, and that in buildings, structures, developments or complexes consisting of twenty (20) or more dwelling units, at least ten (10) of such dwelling units must be rented to or occupied by persons who are students in undergraduate institutions. Such student housing shall include dwelling units which are rented out to

institutions, corporations, or persons, and in turn are then sublet to, or occupied by, students of undergraduate institutions. Such student housing shall not include housing which is located on the campus of a university or college or housing which is controlled by a university or college, so long as the university or college provides security for such housing to protect students, occupants, and neighbors of such housing. In determining whether property continues to be used as student housing, the Commissioner shall treat vacant units which were formerly rented to or occupied by students in undergraduate institutions as counting toward the unit threshold, unless the landlord establishes by clear and convincing evidence that it is no longer his intent to rent out such units to students of undergraduate institutions.
(Ord. 1992 c. 1 § 1 [506])

9-12.2 Security Requirements for Student Housing Where There is Probable Cause to Believe That There Is A Risk to the Occupants or Neighbors of Such Housing.

The Commissioner of the Inspectional Services Department shall promulgate regulations, pursuant to his/her authority under Section 127A of Chapter 111 of the General Laws, and consistent with the requirements of the State Sanitary Code and subsections 9-12.1 through 9-12.5. These regulations shall take effect within ninety (90) days of the effective date of this section. Such regulations shall require the following:

a. That a complaint process shall be established whereby occupants and neighbors of student housing may file a complaint and request for investigation with the Inspectional Services Department if there are breaches of the peace and quiet enjoyment of the public or the occupants of such student housing committed on or near such student housing premises. A neighbor or occupant of student housing may file a complaint upon obtaining the signatures and addresses of nine (9) other neighbors or occupants of the student housing premises. Such complaints shall be taken without regard to whether the premises do in fact come within the definition of student housing.

b. That, within ten (10) days of receipt of a complaint under this section, the Inspectional Services Department shall investigate to determine: (i) whether

the premises appear to meet the definition of student housing in terms of the number of units and the number of units occupied by students; and (ii) whether there is probable cause to believe that there is a risk to the safety, security, and quiet enjoyment of occupants or neighbors of student housing as the result of insufficient security measures taken with regard to such student housing. Such investigation shall be completed within ten (10) days of receipt of the complaint by the issuance of a notice determining whether there is or is not probable cause to proceed further. Such notice shall be sent to the landlord of the student housing and to the complaining party or parties and to the dean of student affairs of the undergraduate institution in which the students are enrolled. Complaining parties who have been notified that there is no probable cause to proceed further shall have the right to request a hearing from the Commissioner in a manner similar to that provided in G.L.c. 111, § 127B to challenge the Commissioner's failure to respond to a request for investigation or to challenge the Commissioner's determination that there is no probable cause to proceed further.

c. If the Commissioner determines that there is probable cause to proceed, the notice to the landlord shall state the following:

1. The landlord may request a hearing to contest the finding of probable cause, which shall be conducted in a manner similar to that proceed in G.L.c. 111, § 127B.

2. If the landlord does not request a hearing in a timely manner, the landlord must request a crime prevention survey to identify the steps that can be taken by the landlord to insure the safety, security and quiet enjoyment of occupants and neighbors of the student housing.

The notice shall also state that if the landlord fails to request a hearing within ten (10) days of the date of the Commissioner's notice of probable cause, the landlord shall be deemed to have waived election of a hearing, and shall be ordered to request a crime prevention survey.

d. If a landlord fails to request a hearing as provided in paragraph c. above, or if a hearing is requested and, following such hearing, it is determined by a preponderance of the evidence that

there is probable cause to believe that there is a risk to the safety, security, and quiet enjoyment of occupants or neighbors of student housing as the result of insufficient security measures taken with regard to such student housing, the Commissioner of the Inspectional Services Department shall order the landlord to request a crime prevention survey within ten (10) days. If the landlord fails to make such a request, he shall be subject to a fine of one hundred fifty (\$150.00) dollars. Each day's failure to respond to the Commissioner's order thereafter shall constitute a separate violation. The landlord shall also be subject to prosecution for failing to respond to the Commissioner's order in the same manner as is provided for under Article II of the State Sanitary Code. Occupants and neighbors of the student housing shall also have a private right of action to seek enforcement of the landlord's obligation to request a crime prevention survey.

e. If the landlord requests a crime prevention survey and, following the survey, it is determined that a security plan is necessary, the landlord must provide the security measures identified in the security plan, as developed and approved in compliance with the provisions of subsections 9-12.3 and 9-12.4. After a security plan is adopted, the landlord shall have the continuing duty to provide the security measures identified in the security plan. Any request for modification in the security plan must be submitted to the Inspectional Services Department for prior review and approval. Failure to continue to provide the security measures mandated by a security plan shall constitute a violation of this section and be subject to enforcement under subsection 9-12.5.

f. If, at any time following a finding of probable cause by the Commissioner of the Inspectional Services Department, the landlord of student housing changes the way in which the property is rented out, such that it is the landlord's position that the property no longer meets the definition of student housing, the landlord shall so notify the Commissioner in writing. The Commissioner shall investigate the landlord's claim and shall give notice of the same and an opportunity to respond to the complaining parties. Such investigation shall be completed within ten (10) days of receipt of the landlord's notice by the issuance of a notice determining whether the premises should continue to be treated as student housing subject to the provisions of this section. Such notice shall be sent to

the landlord of the student housing and to the complaining party or parties. Parties aggrieved by the Commissioner's determination shall have the right to request a hearing from the Commissioner in a manner similar to that provided in G.L. c. 111, § 127B.

(Ord. 1992 c.1 § 1 [507]) Penalty, see subsection 9-12.5

9-12.3 Criteria for a Security Plan.

A security plan shall be based upon a crime prevention survey which has been completed by the Boston Police Department, and shall incorporate all of the elements recommended by the crime prevention survey for the adequate protection of the occupants and neighbors of the student housing, except as otherwise provided in subsection 9-12.4. Each crime prevention survey shall include both findings as to the security needs of the occupants and neighbors of the student housing and recommendations as to how such needs shall be met through existing or new security measures, such as lighting, locks, safety officers, resident managers, security stations, security systems, or other equipment, personnel, or programs. Each survey shall also include a one (1) page summary, on official Police Department stationery, itemizing the elements recommended.

The landlord shall be responsible for arranging for a crime prevention survey by the Boston Police Department, and shall notify the Commissioner of the Inspectional Services Department in writing at the same time that he requests such survey from the Boston Police Department. No fee shall be assessed to the landlord for such survey. The Boston Police Department shall carry out such crime prevention survey and provide a copy of the same to the landlord and the Inspectional Services Department upon completion, as provided for in Section 11-1 of the City of Boston Code, as amended. Such surveys shall be completed within thirty (30) days of receipt of the landlord's request for a crime prevention survey. (Ord. 1992 c. 1 § 1 [508]) Penalty, see subsection 9-12.5

9-12.4 Process for Approval of a Security Plan.

a. *Approval of Security Plan Incorporating Security Measures Recommended by Crime Prevention Survey.* Within thirty (30) days of the receipt of the

crime prevention survey, the landlord shall prepare a security plan for approval by the Commissioner of the Inspectional Services Department. Such plan shall be deemed to be in full compliance within this section provided that: (i) the security plan mandates, at the very least, the provision of the security measures recommended in the crime prevention survey; and (ii) the parties whose complaint triggered the probable cause finding have not articulated security needs which are not adequately addressed by the survey or the plan. If the crime prevention survey indicates that no security measures are needed additional to those already in effect at the student housing, the security plan shall be presumed to be sufficient so long as the landlord, in such plan, agrees to keep in effect all existing security measures; this presumption, however, may be rebutted by the complaining parties. In all cases, the complaining parties or their authorized representatives must be given the opportunity to present their views to the Commissioner of the Inspectional Services Department at a hearing before the plan is accepted. The Commissioner shall insure that prior notice of such hearing, as well as a copy of the landlord's security plan and the crime prevention survey, are provided to the complaining parties or their authorized representatives. Following the hearing, the Commissioner shall approve or modify the security plan, consistent with the recommendations of the crime prevention survey and the security needs articulated by the complaining parties. In reviewing the adequacy of the plan and reaching a decision thereon, the Commissioner shall consult with a certified crime prevention officer from the Boston Police Department, as provided for in Section 11-1 of the City of Boston Code, as amended. The Commissioner's approval or modification shall be in the form of a written decision, and shall be furnished to all affected parties within ten (10) days of the hearing date.

b. *Petition for a Modified Security Plan: Approval Process.* Within thirty (30) days of receipt of the crime prevention survey, if the landlord of student housing disputes the need for any of the specific security measures recommended by the crime prevention survey, or the method or the timetable for carrying out security measures, based on the fiscal or contracting constraints that apply to the particular housing, then the landlord can petition the Commissioner of the Inspectional Services Department for permission to submit a modified security plan which does not encompass all of the security measures

mandated by the crime prevention survey. Such petition shall be accompanied by a proposed security plan. If a landlord submits a petition for a modified security plan, the landlord shall have the burden to show how any of the specific security measures recommended in the crime prevention survey are unnecessary, or, given the fiscal or contracting constraints particular to the development, how changes are needed in the method or timetable for implementation of security measures.

In all cases, the complaining parties or their authorized representatives must be given the opportunity to present their views to the Commissioner of the Inspectional Services Department at a hearing before the petition and plan is accepted. The Commissioner shall insure that prior notice of such hearing, as well as a copy of the landlord's security plan and the crime prevention survey, are provided to the complaining parties or their authorized representatives. Following the hearing, the Commissioner shall approve or modify the security plan, consistent with the recommendations of the crime prevention survey and the security needs articulated by the complaining parties.

Following the hearing, if the Commissioner of the Inspectional Services Department finds that:

1. Any of the specific security measures recommended in the crime prevention survey are unnecessary to meet the security needs of occupants or neighbors of the student housing; or
2. Within the fiscal or contracting constraints that apply to the particular development, the landlord's proposed plan will provided a reasonable method or timetable for meeting security needs, the Commissioner shall either approve the petition for a modified security plan or make such modifications to the plan as are necessary.

In reviewing the adequacy of the plan and reaching a decision thereon, the Commissioner shall consult with a certified crime prevention officer from the Boston Police Department, as provided for in Section 11-1 of the City of Boston Code, as amended. The Commissioner's approval or modification shall be in the form of a written decision, and shall be furnished to all affected parties within ten (10) days of the hearing date.

(Ord. 1992 c. 1 § 1 [509]) Penalty, see subsection 9-12.5

9-12.5 Enforcement.

The Commissioner of the Inspectional Services Department shall notify the landlord of student housing in the event the housing is found to be in noncompliance with the provisions of subsections 9-12.1 through 9-12.4, and shall order compliance. Except as otherwise provided in subsections 9-12.1 through 9-12.4, said landlord shall have thirty (30) days from the date of notification in which to achieve compliance with the Commissioner's order. Upon the expiration of the thirty (30) day period, the landlord of student housing still in violation of the order shall be subject to a fine of one hundred fifty (\$150.00) dollars. Each day's failure to comply with the order thereafter shall constitute a separate violation of the Commissioner's order. Orders shall be enforced in a manner similar to that provided for enforcement of orders under Article II of the State Sanitary Code. Occupants and neighbors of student housing shall have the right to request investigation by the Commissioner of the Inspectional Services Department in the manner provided in subsection 9-12.2 if they believe that a landlord of student housing has failed to comply with the provisions of subsections 9-12.1 through 9-12.4. Such persons shall have the right to request a hearing from the Commissioner in a manner similar to that provided in G.L. c. 111, § 127B if the Commissioner fails to respond to a request for investigation, if the Commissioner fails to make findings of noncompliance following an investigation, or if the Commissioner fails to issue orders upon a finding of noncompliance.

(Ord. 1192 c. 1 § 1 [510])

9-12.6 Non-Liability of the City of Boston.

The provisions of this section shall not be construed to establish any duty on the part of the City of Boston greater than the City's general public duty to protect its citizens' health, safety, security and well-being. No determination by the Commissioner of the Inspectional Services Department or the Boston Police Department as to the adequacy of a landlord's security measures shall be construed as a warranty or guarantee of such security, and the sole responsibility for insuring that security measures are adequate to protect occupants and neighbors from foreseeable harm or risk shall rest and remain with the owner of such property.

(Ord. 1992 c. 1 § 3)

9-12.7 Severability.

The provisions of this section are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions which remain in full force and effect.

(Ord. 1992 c. 1 § 4)

9-13 PROBLEM PROPERTIES TASK FORCE.**9-13.1 Establishing a Problem Properties Task Force.**

There is hereby established in the Mayor's Office an advisory panel to be known as the Problem Properties Task Force, the members of which shall meet and share information concerning various properties in the City of Boston as more fully outlined herein. The panel shall advise the Mayor or his designee of the actions taken by various City Departments and public agencies to address problems associated with such property and each member of the panel may use the information about such property in order to better enforce the laws, ordinances, codes or regulations that fall within such member's jurisdiction.

a. The Task Force shall be chaired by a member of the Mayor's staff who shall have the full confidence of the Mayor, and shall be housed in a department of the Mayor's Office as the Mayor shall from time to time designate.

b. Members of the Task Force shall be:

The Police Commissioner
 The Fire Commissioner
 The Commissioner of Inspectional Services
 Director of the Office of Neighborhood
 Services
 The Commissioner of Public Health
 The Collector Treasurer
 The Director of the Air Pollution Control
 Commission The Corporation Counsel

c. The Task Force shall have regular monthly meetings in City Hall and may meet at other locations in the City. Emergency meetings shall be held at the call of the Chair.

d. Upon the effective date of this ordinance, each member of the Task Force shall make a diligent search of the records of his or her department and gather all records of multiple calls from the public concerning specific addresses in the last 12-month period. Such records shall be forwarded to the Chair who shall establish master files for each address forwarded containing all records concerning that address. Such files may be kept in electronic form. Notwithstanding the forgoing, the Police Commissioner shall not forward any record that is part of a criminal investigation.

e. A *problem property* shall be defined as any property to which the Police Department has been called not fewer than four times within the preceding 12-month period for any incident involving any criminal offense including but not limited to disturbing the peace, trespassing, underage drinking or assault; or any property concerning which the Air Pollution Control Commission has received not fewer than four complaints for noise within the preceding 12-month period; or any property that the Inspectional Services Department or the Public Health Commission has received not fewer than four complaints within the preceding 12-month period for noxious, noisome or unsanitary conditions. Provided, however, that the final designation of a property as a problem property shall be made by the Chair taking into consideration the nature of the complaints, the number of dwelling units at the property, and the nature of the property.

f. Upon review of each file, the members of the Task Force may determine that a particular property warrants heightened scrutiny by the agency or agencies that they head.

i. In the case of properties in or around which recurring criminal activity has occurred in the preceding 12 months, the Boston Police Commissioner shall consider whether to increase surveillance of said property and all other enforcement actions permitted by law.

ii. In the case of properties which have had multiple building and/or sanitary code violations in the preceding 12 months, the Inspectional Services Commissioner and the Executive Director of the Public Health Commission shall, as appropriate, consider whether to expedite code enforcement proceedings and all other enforcement actions permitted by law.

iii. In the case of properties which have had recurring violations of noise regulations in the preceding 12 months, the Executive Director of the Air Pollution Control Commission shall coordinate with the Law Department to institute proceedings for injunctive relief.

iv. Properties described in this paragraph shall be designated as "problem properties".

g. The Chair of the Task Force shall perform such duties as may be prescribed by ordinance, including notifying a property owner of the designation of his or her property as a problem property, and notifying a property owner of the intention to impose charges to recover the cost of public safety expenses related to that property.

h. The Corporation Counsel shall commence foreclosure proceedings for any such property described above in paragraph f. which has delinquent real estate taxes.

i. The Chair of the Task Force shall issue a written report to the Mayor and City Council on the actions undertaken by the agencies represented by its members on problem properties for the period of the enactment of this ordinance to the second anniversary of its enactment. The report shall be delivered not later than three months after the second anniversary of the enactment of this ordinance.
(Ord. 2011 c. 12)

CITY OF BOSTON CODE - ORDINANCES

CHAPTER X

HOUSING SERVICES

10-1 BOSTON HOUSING AUTHORITY.

No Ordinances Apply. See Special Statutes.
(CBC 1975 St. T10 c. 1)

10-2 RENTAL HOUSING EQUITY ORDINANCE.

Editor's Note:

Ordinance 1995 c. 9 reaffirmed and reenacted Section 10-2 pursuant to Chapter 527 of the Acts of 1983, as well as all other sources of authority, to the extent applicable and authorized by law. Ordinance 1995 c. 9 was stricken by Ordinance 1996 c. 3 which was adopted in its stead as an amendment to Chapter X.

Pursuant to Section 10-2 of the City of Boston Code, Chapter X, and the authority of Chapter 527 of the Acts of 1983, where a tenant has condominium conversion eviction ban status pursuant to Section 10-2 of the City of Boston Code. Chapter X, such tenant shall have the same rent increase protections that exist for a tenant under notice pursuant to subsection 10-2.10 for the duration of such ban and pursuant to such hardship provisions for rent increases to insure a fair net operating income as the Board may establish by regulation.

10-2.1 Definitions.

When used in this section, unless the context otherwise requires, the following terms shall have the following meanings:

a. *Center* shall mean the Rental Housing Resource Center established by City of Boston, and charged with the responsibility of making landlords and tenants in the City of Boston aware of their rights and responsibilities under State and local landlord-tenant laws, as well as providing information

and resources that may assist in resolving landlord-tenant disputes (including but not limited to mediation assistance).

b. *Condominium or Cooperative Conversion* shall mean the initial sale or transfer of legal title to a housing accommodation and the recording of the master deed or articles of organization pursuant to Chapters 156B, 157, 157B, or 183A of the General Laws. As used herein, such term shall also mean any activity by a landlord, developer, investor or other persons which would result, is intended to result, or does result in a change in the form of ownership of any housing accommodation to a condominium or cooperative unit, or in the sale or transfer of legal title of any housing accommodation as a condominium or cooperative unit, and shall include the transfer, sale, marketing or advertisement of any housing accommodation as a condominium or cooperative unit.

c. *Condominium or Cooperative Conversion Eviction* shall mean as defined in section 3 of chapter 527 of the acts of 1983, as amended by section 2 of chapter 709 of the acts of 1989.

d. *Condominium Unit* shall mean as defined in section 3 of chapter 527 of the acts of 1983.

e. *Convert* shall mean as defined in section 3 of chapter 527 of the acts of 1983, as amended by section 2 of chapter 709 of the acts of 1989.

f. *Cooperative Unit* shall mean as defined in section 3 of chapter 527 of the acts of 1983, as amended by section 4 of chapter 170 of the acts of 1984.

g. *Elderly Tenant* shall mean a tenant or tenant household in which at least one (1) member is at least sixty-two (62) years of age as of the date of receipt of any notice or the exercising of any right, whichever may occur later, under this section.

h. *Handicapped Tenant* shall mean tenant or tenant household in which at least one (1) member is physically handicapped as defined by section 13A of chapter 22 of the General Laws or mentally handicapped as defined by Title 29 of the United States Code, section 706(7)(b), as of the date of receipt of any notice or the exercising of any right, whichever may occur later, under this section, provided, a condition of dependency on alcohol or any controlled substance shall not be the basis of a determination of handicap.

i. *Housing Accommodations* shall mean any building or buildings, structure or structures, or part thereof or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, within the City, including without limitation, houses, apartments, condominium units, cooperative units, rooming or boarding house units, and other properties used for living or dwelling purposes, together with all services connected with the use or occupancy of such property, provided however, (1) that mobile homes, trailers, or trailer or mobile home lots in mobile home parks, and publicly owned dwelling units shall not be subject to this section, but shall continue to be subject to the protections contained in City of Boston Code, Chapter X, Section 10-2.2 that to the extent such housing accommodations are publicly owned housing, publicly subsidized housing, or Federally assisted housing within the meaning of G.L. c. 40P, § 3(c), such that the City of Boston may have continued rent control enabling authority for such housing accommodation, such housing accommodation shall not be subject to this Ordinance, but shall continue to be subject to the protections contained in City of Boston Code, Chapter X, Section 10-2, and 10-3 that the following shall not be contained within the definition of housing accommodations for the purpose of this section:

1. Housing accommodations which the United States or the Commonwealth of Massachusetts or any authority created under the laws thereof either owns or operates;

2. Housing accommodations in any hospital, convent, monastery, asylum, public institution, or college or school dormitory operated exclusively for charitable or educational purposes, or in any nursing or rest home for the aged;

3. Buildings containing fewer than four (4) residential units, except for buildings which are part of a housing development as defined herein;

4. Housing accommodations in hotels, motels, inns, tourist homes, and rooming and boarding houses which are occupied by transient guests staying for a period of fewer than fourteen (14) consecutive calendar days;

5. Housing accommodations which are converted to a limited equity housing cooperative organized and operated primarily for the benefit of low to moderate income persons, and whose equity, after allowance for the maximum transfer value of its stock, is dedicated through recorded deed restrictions to providing housing to persons of low and moderate income for a period of no less than thirty (30) years.

In addition, the following housing accommodations, while within the definition contained in St. 1983, c. 527, as amended, shall only be subject to the provisions or requirements contained in St. 1983, c. 527, as amended, to the extent not exempted under subsection 10-2.1h, 1-5 above, and not to the additional provisions or requirements contained in this section: (1) Housing accommodations constructed, or created by conversion from a non-housing to a housing use, on or after November 30, 1983; (2) housing accommodations which were constructed or substantially rehabilitated pursuant to any federal mortgage insurance program, without any interest subsidy or tenant subsidy or tenant subsidy attached thereto; and (3) housing accommodations financed through the Massachusetts Housing Finance Agency, with an interest subsidy attached thereto.

j. *Housing Development* shall mean as defined in section 3 of chapter 527 of the acts of 1983, as amended by section 5 of chapter 709 of the acts of 1989.

k. *Housing Services* shall mean services of facilities provided by a landlord or required by law or by the terms of a rental housing agreement to be provided by a landlord to a tenant in connection with the use and occupancy of any housing accommodation, including without limitation, services, furniture, furnishings, and equipment; repairs, decorating, and maintenance; provision of light, heat, hot water, cold water, telephone and elevator service;

kitchen, bath, and laundry facilities and privileges; use of halls, corridors, stairs, common rooms, yards and other common areas; maid service, linen service, janitorial service, removal of refuse, parking facilities, and any other benefit, privilege, or facility connected with the use or occupancy of any housing accommodation. Housing services to a housing accommodation shall include a proportionate share of the services provided to common facilities of the building in which the housing accommodation is located.

l. *Intent to Convert* shall mean as defined in section 3 of chapter 527 of the acts of 1983, as added by section 5 of chapter 709 of the acts of 1989.

m. *Interest Subsidy* shall mean as defined in section 3 of chapter 527 of the acts of 1983.

n. *Just Cause* shall mean as used with regard to evictions, that the basis for eviction is limited to one (1) or more of the permissible grounds for eviction set forth in Section 6(a) of Chapter 282 of the Acts of 1994, and is not a condominium or cooperative conversion eviction. For the purpose of this section, "just cause" may include a tenant's refusal to pay an increase in rent, unless: (i) the tenant has received a notice of condominium/cooperative conversion eviction and the increase proposed is beyond the increases authorized by subsection 10-2.10e. of this section; or (ii) for a tenant who has not received a notice of condominium/cooperative conversion eviction, but where the presumption of condominium/cooperative conversion eviction applies, the landlord cannot demonstrate that his intent is not to facilitate the sale or transfer of the housing accommodation to a prospective purchaser.

o. *Landlord* shall mean the individual who holds title to any housing accommodation in any manner, including without limitation, a partnership, corporation, or trust. For purposes of this ordinance, the rights and duties of the landlord hereunder shall be the obligation of anyone who manages, controls, or customarily accepts rent on behalf of the landlord.

p. *Low or Moderate Income Tenant* shall mean a tenant or group of tenants, all of whom occupy the same dwelling unit, whose total income for the twelve (12) months immediately preceding the date of any notice or the exercising of any right, whichever may

occur later, is not more than eighty (80%) percent of the median income for the area as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937, as amended, and calculated pursuant to said regulations.

q. *Rent* shall mean the consideration, including without limitation, all bonuses, benefits, gratuities, or charges contingent or otherwise, demanded or received for, or in connection with, the use or occupancy of a housing accommodation, for housing services, or for the transfer of a lease of a housing accommodation.

r. *Rental Housing Agreement* shall mean an agreement, oral, written, or implied, between a landlord and a tenant for the use and occupancy of a housing accommodation and for housing services.

s. *Tenant* shall mean a tenant, subtenant, lessee, sub-lessee, or other person, entitled under the terms of a rental housing agreement to the use and occupancy of any housing accommodation.

t. *Unit* shall mean as defined in section 3 of chapter 527 of the acts of 1983, as amended by section 7 of chapter 709 of the acts of 1989.

(Ord. 1972 c. 19; Ord. 1974 c. 13; Ord. 1975 c. 15; CBC 1975 Ord. T10 § 1; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33; Ord. 1985 c. 11, §§ 5, 6; Ord. 1987 c. 4; Ord. 1987 c. 6 § 1; Ord. 1987 c. 12 § 1; Ord. 1988 c. 9 §§ 2, 3, 4; Ord. 1988 c. 11 §§ 2, 3, 4; Ord. 1989 c. 1 § 1; Ord. 1989 c. 2 § 1; Ord. 1993 c. 10 § 1; Ord. 1994 c. 8 § 1; Ord. 1996 c. 1 §§ 1, 2, 3; Ord. 1996 c. 3, § 1; Ord. 1996 c. 9 § 2, 3; Ord. 1999 c. 8 § 1)

10-2.2 Rent Equity Board.

a. *Composition.* There shall be in the City of Boston a Board, known as the Rent Equity Board, consisting of five (5) residents of the City appointed by the Mayor, including two (2) tenants of rental housing units, who own no dwelling units; two (2) landlords, one of whom owns or manages at least twenty (20) rental dwelling units in the City, and one who owns or manages more than three (3), but less than twenty (20) rental dwelling units in the City; and

one member representing the public interest, who shall have no prior involvement in advocacy on behalf of tenants or landlords, but shall represent a broad and unbiased public interest. The Administrator, with the approval of the Mayor, may serve as a public member of the Board. Members of the Board shall be appointed for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected. To the extent possible the Board shall reasonably reflect the racial composition of the City. The Administrator, if a member of the Board, shall not serve as Chairperson of the Board. The Board shall elect one of its members as Chairperson to serve in that capacity for a term of one (1) year. Vacancies shall be filled by the Mayor for the unexpired term. The Mayor may remove any member of the Board in accordance with the provisions of the City of Boston Code, Statutes, Title 5, Section 107.

b. *Compensation.* Each member of the Board shall receive compensation for actual service in the amount of fifteen (\$15.00) dollars per hour, or part thereof. The Administrator shall not receive any additional compensation for duties performed as a member of the Board, beyond the Administrator's salary. Members of the Board, other than the Administrator, are hereby classified as special municipal employees for the purpose of Chapter 268A of the General Laws of the Commonwealth of Massachusetts.

c. *Powers and Duties.* The Board shall be responsible for carrying out the provisions of this ordinance. The Board shall hire, with the approval of the Mayor, the Administrator. The Board shall promulgate such policies, rules, rulings and regulations, and shall issue such orders, as will further the provisions of this ordinance. The Board shall, as provided in subsections 10-2.4, 10-2.5 and 10-2.7, establish and adjust the maximum rent for housing accommodations; shall, as provided in subsection 10-2.6, adjust the rent for decontrolled housing accommodations; shall, as provided in subsection 10-2.9, grant or deny certificates of eviction; shall, as provided in subsection 10-2.11, grant, deny or modify removal permits and shall bring such proceedings as may be necessary to enforce the provisions of this section or to enforce any policy, rule, ruling, regulation, or order promulgated or issued by the Board pursuant to this section. The Board may refer

any appropriate matter to the assessing, building, fire, or housing inspection departments, or any other appropriate department, of the City, and may, at the request of any landlord, render a binding advisory opinion as to the permissible impact of a proposed capital improvement on the rents.

d. *Studies, Information, Investigations and Reports.* The Board may make such studies, conduct such hearings and investigations, and obtain such information as is deemed necessary in promulgating any regulation, rule or order pursuant to this ordinance and any regulations or order promulgated hereunder. For the foregoing purposes, a person may be summoned to attend and testify, to produce documents, and to prepare in a like manner as he may be summoned to attend as a witness before a court and before the City Council under Section 8 of Chapter 233 of the General Laws of the Commonwealth of Massachusetts. Any person who rents or offers for rent or acts as broker or agent for the rental of any controlled housing accommodation or decontrolled housing accommodation may be required to furnish under oath any information required by the Board which relates specifically to said housing accommodations, to provide records and other documents, and to make reports. Such persons shall have the right to be represented by counsel, and a transcript shall be taken of all testimony and such person shall have the right to examine said transcript at reasonable times and places. Section 10 of Chapter 233 of the General Laws of the Commonwealth of Massachusetts shall apply. The Board shall recommend adoption of such amendments as may be necessary to carry out the purposes of this section.

e. *Determination of Invalidity.* In the event that any policy, rule, ruling, regulation or order promulgated by the Board is held invalid by any court of competent jurisdiction, the Board shall forthwith amend or revoke such policy, rule, ruling, regulation or order, and cease further enforcement thereof, to the full extent required in order to conform to the principles and reasoning set forth in the decision of such court, and such decision shall be deemed binding upon the Board in connection with any and all pending matters.

f. The Board shall confer with interested parties, including but not limited to representatives of landlords, tenants, and community development

corporations in order to develop written recommendations to the City Council and the Mayor for amendments to the section which will foster the preservation of housing accommodations constructed or developed pursuant to Sections 202, 221(d)(3), and 236 of the National Housing Act as housing which will remain affordable to the low-income tenants and moderate income tenants presently residing in such accommodations, including but not limited to incentives for limited equity cooperative ownership by such tenants and appropriate requirements for tenant financial contribution. The Board shall also study and make recommendations on the need for any additional procedures regarding evictions from housing which has mortgages which are financed by the Massachusetts Housing Finance Agency (MHFA). Such study shall include an analysis of present and proposed MHFA hearing procedures. The Board shall report all of its recommendations under this provision by June 30, 1989.

g. *Charges.* The Board shall require every landlord of rent controlled or vacancy decontrolled housing accommodations to pay an annual charge for services provided by the Board under this section. Such charge shall be for such services as, without limitation, the Board's cost of maintaining records regarding the landlord's housing accommodations; the Board's calculations of the landlord's annual general adjustment of maximum rent; and the Board's developing, mailing, and otherwise providing printed information and forms regarding rent control, vacancy decontrol and other related matters. Such charge shall be established by the Board by regulation on a fiscal or calendar year basis and shall be charged per individual housing accommodation, whether such housing accommodation is occupied or unoccupied. The Board may establish a charge by subclass for such housing accommodations. Any such annual charge established by the Board shall be reflective of the costs incurred by the Board in providing services under this section; provided, however, that in no event shall such annual charge be less than twelve (\$12.00) dollars nor more than thirty-six (\$36.00) dollars per year per individual housing accommodation. The annual charge shall be payable to the City of Boston by the landlord, and the Board shall establish by regulation the time, place and manner for such payment. The Board shall insure that all charges collected pursuant to this ordinance are deposited with the Collector-Treasurer. After such payment has been made, the landlord may

charge all or part of the annual charge for each such housing accommodation to the tenants thereof. For purposes of this section, if the landlord so acts, said charge shall be rent, as defined by City of Boston Code, Ordinances, Chapter X, Section 10-1.2.

If a landlord has failed to pay such charge as required, all petitions, applications or other like submissions filed with the Board by such landlord requesting Board action shall be deemed defective and the Administrator shall administratively dismiss such petition, application or submission.

A general adjustment of maximum rent for any class of rent controlled housing accommodation shall not be applicable and an increase shall not be authorized for such housing accommodation where the landlord fails to pay the annual charge required herein for such housing accommodation. Notwithstanding anything stated in this section to the contrary, the Administrator may allow a petition, application or other submission to go forward, and may allow a general adjustment of maximum rent to be applicable and a rent increase to be authorized, if a landlord who has not paid the charge required herein shows, and the Administrator finds, good cause for such nonpayment. (Ord. 1972 c. 19; Ord. 1974 c. 13; Ord. 1975 c. 15; CBC 1975 Ord. T10 § 2; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33; Ord. 1984 cs. 7, 29-34; Ord. 1988 c. 9 § 10[e]; Ord. 1988 c. 11 § 5; Ord. 1989 c. 1 § 2; Ord. 1989 c. 7 § 1; Ord. 1991 c. 2 § 1)

Editor's Note:

Ordinance 1987 c. 6 § 6 is as follows:

SECTION SIX. NOTICE. Within 60 days after the passage of this ordinance the Rent Equity Board shall notify all residents of the City of the protections provided by Chapter 34 of the Ordinances of 1984 as amended. (See subsection 10-2.10 and subsection 10-2.12)

Ordinance 1987 c. 12 § 4 is as follows:

SECTION FOUR. NOTICE. Within 10 days after the passage of this ordinance, the Rent Equity Board shall notify all residents of mobile home parks in the City of Boston of the protections provided by this ordinance. (See subsection 102.13)

10-2.3 Registration.

The Board may require registration of all controlled housing accommodations on forms approved by the Administrator. Whoever fails to file in a timely manner any statement or information required to be filed under this section shall, in addition to all other penalties pursuant to subsection 10-2.17, be subject to a fine of up to fifty (\$50.00) dollars per calendar day, or part thereof, that such failure continues. No petition for an upward adjustment of maximum rent shall be accepted by the Board until all statements and information required to be filed pursuant to this section have been filed, and all such petitions received prior to such filing shall be dismissed by the Board.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 3; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33) Penalty, see subsection 10-2.17

10-2.4 Maximum Rent.

The maximum rent of a controlled housing accommodation shall be the rent which was established under Chapter 842 of the Acts of 1970, and Section 13(a) of Chapter 19 of the Ordinances of 1972, as amended as adjusted by the Board pursuant to Chapter 15 of the Ordinances of 1975 as amended or Chapter 1 of the Ordinances of 1983, as amended, whichever is applicable; provided, however, the maximum rent for a rent controlled housing accommodation in a cooperative shall be the rent charged as of May 1, 1982. If the maximum rent of a controlled housing accommodation has not otherwise been established, it shall be established by the Board. Any maximum rent for a controlled housing accommodation shall be adjusted subsequently in accordance with the provisions of subsections 10-2.5 and 10-2.7. The maximum rent for a mobile home or a mobile home lot shall be the rent charged as of September 1, 1995.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 4; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33; Ord. 1996 c. 1 § 4; Ord. 1996 c. 9 § 4) Penalty, see subsection 10-2.17

10-2.5 Adjustment of Maximum Rent.

a. *General Adjustments.* Commencing in 1985, the Board shall annually adjust the maximum

rent established pursuant to subsection 10-2.4 by percentage, for all controlled housing accommodations which have not received an adjustment during the prior calendar year and which are in compliance with Article II of the State Sanitary Code. Each such maximum rent shall be adjusted in an amount equal to the percentage increase or decrease in the consumer price index during the prior calendar year, said adjustment to become effective on the first day of June of each year commencing on June 1, 1985.

The Board may, by order or regulation as provided in subsection 10-2.7, make such other general adjustments, either upward or downward, in the maximum rent established by subsection 10-2.4 for all controlled housing accommodations or any class thereof as may be necessary to remove hardships or to correct other inequities, and in so doing, shall observe the principle of maintaining maximum rents for controlled housing accommodations at levels which will yield to landlords a fair net operating income from such housing accommodations.

The Board shall cause a notice of any such general adjustment of maximum rents for controlled housing accommodations to be published three (3) times in at least one newspaper of general circulation in the City at least thirty (30) days prior to the effective date thereof and shall send to all landlords of controlled housing accommodations a copy of said notice by first class mail.

b. *Individual Adjustments.* The Board shall by order as provided in subsection 10-2.7, make such individual adjustments, either upward or downward, of the maximum rents established by subsection 10-2.4, or as adjusted pursuant to paragraph a. of this subsection, for any controlled housing accommodation as may be necessary to remove hardships or to correct other inequities, and in so doing, shall observe the principle of maintaining maximum rents for controlled housing accommodations which will yield to landlords a fair net operating income from such housing accommodations.

c. *Fair Net Operating Income.* In determining whether the maximum rent for a controlled housing accommodation yields a fair net operating income, the Board shall consider, without limitation, the following relevant factors:

1. Increases or decreases in property taxes;

2. Unavoidable increases or any decreases in operating and maintenance expenses;

3. Capital improvement of the controlled housing accommodation;

4. Increases or decreases in living space or housing services; and

5. Substantial deterioration of the controlled housing accommodation, other than ordinary wear and tear, or failure to perform ordinary repair, replacement or maintenance.

d. For the purposes of adjusting rents under the provisions of paragraph b. of this subsection, the Board may promulgate a schedule of standard rental increases or decreases for improvement or deterioration of specific housing services.

e. *Denial of Adjustment.* Notwithstanding any other provisions of this subsection, the Board may deny or refuse to grant any upward adjustment of the maximum rent for a controlled housing accommodation, if, upon petition of the tenant, it determines that the affected controlled housing accommodation does not comply with Article II of the State Sanitary Code or the State Building Code or the Boston Fire Prevention Code or any other applicable municipal code, ordinance, or State law, regulating the conditions or occupancy of housing accommodations. The Board may refuse to make a downward adjustment of the maximum rent for a controlled housing accommodation if it determines that the tenant is more than sixty (60) days in arrears in tendering rent for such housing accommodation, unless such arrearage is due to a withholding of rent pursuant to the provisions of Section 127L of Chapter 111 or Section 8A of Chapter 239 of the General Laws of the Commonwealth of Massachusetts. For the purposes of this paragraph, an inspection report of a Board inspector or of any authorized State or City inspector or investigator shall be prima facie evidence that the conditions or lack of compliance reported exists.

f. The Board may remove maximum rent levels established pursuant to subsections 10-2.4, 10-2.5 or 10-2.7, for any class of controlled housing

accommodations if, in its judgment the need for continuing such maximum rental levels no longer exists because of sufficient construction of new housing accommodations, the rental levels for which are comparable to the rental levels of the class of controlled housing accommodations for which the maximum rental levels are to be discontinued or because the demand for housing accommodations has otherwise been met. Any maximum rental level removed pursuant to this paragraph shall be reimposed or adjusted and reimposed upon a finding by the Board that a substantial shortage of housing accommodations exist and that such reimposition is necessary to serve the public interest. Any action under this paragraph shall be subject to the hearing and notice requirements of paragraph b. of subsection 10-2.7.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 5; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33) Penalty, see subsection 10-2.17

10-2.6 Rent Grievances.

All elderly, handicapped, or low- or moderate-income tenants of decontrolled housing accommodations may petition the Board on a form approved by the Administrator for a downward adjustment of the rent for such a housing accommodation if the landlord has increased the rent for said tenant's housing accommodation by percentage which is greater than the percentage increase in the consumer price index for the twelve (12) months immediately preceding the date of said tenant's petition. For the purpose of preventing rent gouging, all other tenants of decontrolled housing may petition the Board on a form approved by the Administrator for a downward adjustment of the rent for such housing accommodation if the landlord has increased the rent for said tenant's housing accommodation by a percentage greater than ten (10%) percent in any one year. The Board shall, at least annually, take all reasonable steps to make such tenant aware of the provisions of this subsection and the rights and protections of all tenants existing pursuant to this section. The Administrator shall conduct a hearing with respect to all such petitions filed and shall make a recommendation to the Board. The Board shall not be bound by the Administrator's recommendation and shall evaluate independently the evidence as presented to the Administrator. The Board shall act within a reasonable time after receiving the

Administrator's recommendation; provided, however, such action shall occur within sixty (60) days after the Board's receipt of a petition. Until a decision has been made by the Board in favor of the tenant, the tenant shall be obligated to tender such rent increase as lawfully required by the landlord; provided, however, the Board shall order repayment. The Board may by regulation modify the hearing procedure provided for in this section to serve the public interest.

Any such petition shall be filed with the Board within forty-five (45) days after the tenant's receipt of the landlord's notice of the rent increase; provided, however, the Board may extend such period for filing if the tenant was unable to file the petition due to illness, absence from the City, or other good cause. The Administrator shall notify the landlord upon receipt of a petition. Failure on the part of the landlord to appear at a hearing, either in person or through counsel, on a tenant's petition pursuant to this subsection shall result in an automatic approval of said tenant's petition.

Within forty-five (45) days after the effective date of this section, annually on the second day of January, beginning in 1985, and as part of any notice of an increase in the rent for any decontrolled housing accommodation, and upon a tenant's initial taking of occupancy in a unit of a housing accommodation, every tenant shall be notified in writing of his right to file a rent grievance with the Board pursuant to this subsection. Such notice shall be in a form which has been approved by the Administrator and shall contain information respecting the conditions of eligibility and the procedure for such rent grievances. On or before February 1st of each year, the landlord shall file with the Board an affidavit, under penalty of perjury, that he has caused the notice to be mailed on or about January 2 to each such tenant. Notwithstanding any other provisions of this subsection, no landlord shall receive more than one rent adjustment in any twelve (12) month period.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 6; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33) Penalty, see subsections 10-2.16, 10-2.17

10-2.7 Rent Adjustment Proceedings of Controlled Housing Accommodations.

a. Individual Adjustment of Maximum Rent.

The Board shall consider an adjustment of rent for an individual controlled housing accommodation upon receipt of a petition for adjustment filed by the landlord or tenant of such housing accommodation or upon its own initiative. Such petition shall be made on a form approved by the Administrator. The Board shall notify the landlord and tenant if the petition was filed by the tenant, or the tenant and landlord if the petition was filed by the landlord, upon receipt of such petition of the right of either party to request a hearing in writing within fifteen (15) calendar days after the receipt of such notice, or the Board may schedule a hearing upon its own initiative. If a hearing is requested in a timely manner by either party, or if the action is undertaken upon the initiative of the Board, notice of the time and place of the hearing shall be furnished to the landlord and the tenant and the hearing shall be conducted before a designee of the Board. The Board may consolidate petitions and actions taken under its own initiative relating to controlled housing accommodations in the same building or development, and all such petitions and actions may be considered in a single hearing.

b. General Adjustment of Maximum Rent by Regulation. Upon its own initiative, the Board may make a general adjustment, in addition to those required by paragraph a. of subsection 10-2.5, by percentage or otherwise, of the rental levels for any class of controlled housing accommodations subject to such conditions, if any, as the Board shall determine. Prior to making such adjustments, a public hearing shall be held before at least a majority of the Board. Notice of the time, place and purpose of such hearing shall be published three (3) times in at least one newspaper of general circulation in the City, the first such publication shall appear at least thirty (30) calendar days prior to the scheduled date of said hearing.

c. Limitations on Petitions for Individual Adjustment. Notwithstanding any other provision of this subsection, the Board may, without holding a hearing, refuse to adjust the maximum rent for an individual controlled housing accommodation and may dismiss any petition for adjustment if a decision has

been made with respect to the maximum rent for such housing accommodation within the preceding twelve (12) months or if the Board finds that the petition for adjustment is filed for the purposes of harassment or for any other purpose not intended by this section.

d. Hearings required under paragraph a. shall be conducted in accordance with the provisions of Section 11 of Chapter 30A of the General Laws of the Commonwealth of Massachusetts, except that requirements (7) and (8) of said Section 11 shall not apply to such hearings.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 7; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33)

10-2.8 Information to be Supplied in Connection with Tenant Petitions and Board Initiated Actions for Adjustment -- Controlled Housing Accommodations.

Upon receipt by the Board of a tenant petition for adjustment of maximum rent for a controlled housing accommodation, or upon action initiated by the Board for adjustment of maximum rent for any such housing accommodation, the landlord shall furnish to the Administrator, within fifteen (15) days after a written demand thereof, an information statement in forms approved by the Administrator. Whoever fails to file in a timely manner any information required to be filed under this subsection may, in addition to all other penalties pursuant to subsection 10-2.17, subject to a fine of up to fifty (\$50.00) dollars per calendar day, or part thereof, that such failure continues.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 8; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33) Penalty, see subsections 10-2.16, 10-2.17

10-2.9 Evictions; Controlled and Vacancy Decontrolled Housing Accommodations.

a. No person shall bring any action to recover possession of a controlled or vacancy decontrolled housing accommodation unless:

1. The tenant has failed to pay the rent to which the landlord is legally entitled;

2. The tenant has violated an obligation or covenant of tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after having received written notice thereof from the landlord;

3. The tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the housing accommodation, or is creating substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants of the same or any adjacent housing accommodation;

4. The tenant is convicted of using or permitting a housing accommodation to be used for any illegal purpose;

5. The tenant, who had a written rental housing agreement which terminated on or after the passage of this section has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms as are not inconsistent with or violative of any provisions of this section.

6. The tenant has refused the landlord reasonable access to the housing accommodation for the purpose of making necessary repairs or improvements required by the laws of the United States, the Commonwealth of Massachusetts, or any subdivision thereof, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the housing accommodation to any prospective purchaser or mortgagee;

7. The tenant holding at the end of a lease term is a subtenant not approved by the landlord;

8. The landlord seeks to recover possession in good faith for the use and occupancy of himself, or his children, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

(a) which is occupied by a tenant entitled to protections under paragraph k. of subsection 10-2.10 or

(b) for which a master deed was or articles of organization were duly recorded after December 28, 2011, pursuant to General Laws chapters 183A, 156B, 157 or 157B.

Notwithstanding any other provisions of this section, including, but not limited to, the preceding sentence and paragraph k. of subsection 10-2.10, the Board shall issue a certificate of eviction to the owner of a condominium or cooperative housing accommodation who has satisfied the Board that the following requirements have been met:

(c) The owner legally occupied the housing accommodation continuously for at least one year as his or her principal residence after conversion or removal; and

(d) The owner subsequently rented the housing accommodation to a tenant; and

(e) All the legal owners demonstrate that they, in good faith, intend to reside in the housing accommodation as their principal residence.

9. The landlord seeks to recover possession to demolish the same in compliance with a lawful government order;

10. Recovery of possession in order to remove a controlled or decontrolled housing accommodation shall not be a valid reason to recover possession of a housing accommodation occupied by a tenant protected by subsection 10-2.10 or of any controlled or decontrolled housing accommodation for which a master deed was or articles of organization were duly recorded pursuant to General Laws Chapters 183A, 156B, 157, or 157B.

11. The landlord seeks to recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purposes of this section.

b. The landlord of any controlled or vacancy decontrolled housing accommodation or other property subject to CBC Ord. 10-2.9 shall include the full text of CBC 10-2.9(a) on all leases entered after [date of enactment].

c. Failure to comply with CBC Ord. 10-2.9 shall be an affirmative defense to any action to recover possession of a controlled or vacancy decontrolled housing accommodation.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 9; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33; Ord. 1987 c. 6 § 3; Ord. 1988 c. 9 §§ [A], [B], [C], [D], [E]; Ord. 2011 c. 17) Penalty, see subsection 10-2.17

10-2.9A Rights of Elderly and Handicapped Tenants to Have Pets.

a. Notwithstanding the provisions of any lease or rental agreement to the contrary, no owner of a controlled or decontrolled housing accommodation subject to the jurisdiction of the board may, as a condition of tenancy or otherwise, prohibit or prevent any elderly or handicapped tenant from owning common household pets or having such pets living in the tenant's unit. Furthermore, no owner of a controlled or decontrolled housing accommodation shall have the right to restrict or discriminate against any elderly or handicapped tenant in connection with admission to, or continued occupancy of, such housing by reason of the tenant's ownership of common household pets or the presence of such pets in that tenant's unit. The owner of such housing accommodations shall have the right to promulgate reasonable requirements regarding the number of common household pets allowed in each unit, standards of pet care, licensing, inoculation, and leash laws, similar to those developed by the Massachusetts Society for the Prevention of Cruelty to Animals, and consistent with State and local laws on animal control, such as G.L. c. 140 — 136A-17AD. Nothing in this provision shall bar the owner from requiring the removal of any pet if the pet's conduct or condition is determined to constitute a nuisance or a threat to the health or safety of other occupants of the building, structure, or development of other persons in the community where the housing accommodation is located.

b. *Scope.* Notwithstanding the exemptions found in subsection 10-2.1, the definition of "housing accommodation", all housing accommodations in mobile homes, in mobile home parks, and in structures having three (3) or more dwellings, excluding motels, hotels, or inns, and excluding housing accommodations in structures having three (3) dwelling units, one (1) of which is occupied by all the legal and beneficial owners of the structure as their principal residence, shall be subject to the provisions of this subsection.

(Ord. 1988 c. 13 §§ 1, 2) Penalty, see subsection 10-2.17

10-2.10 Condominium and Cooperative Conversion Evictions.

a. *Limitation on Recovery of Possession for Condominium and Cooperative Conversion Eviction.*

1. No person shall bring any action to recover possession of a housing accommodation for the purpose of a condominium or cooperative conversion eviction in any building or structure converted to a condominium or cooperative form of ownership until the later of the expiration of the rental housing agreement or one (1) year has elapsed after the date the tenant of such housing accommodation received a written notice of termination of his tenancy which conforms to the requirements of this section.

2. In the case of a housing accommodation occupied in whole or in part by a handicapped tenant or occupied by an elderly or low or moderate income tenant the period of notice shall be the longer of (i) five (5) years from the date the tenant of such housing accommodation receives said notice of termination of tenancy; or (ii) the date provided in subsection 10-2.21 below for the term of this section. As provided in subsection 10-2.21 below, such notice period may be extended by future legislation upon appropriate further legislative findings that there continue to be emergency conditions in the Boston housing market justifying such remedial action.

3. In the case of any elderly, handicapped, or low or moderate income tenant who has previously been determined to qualify for eviction protections related to condominium or cooperative conversion notices under prior rent control laws or condominium conversion protection ordinances, it shall be presumed that such person qualifies for the notice period provided in paragraph a,2. above, and such notice period under paragraph a,2(i) above shall be determined from the date of issuance of a notice in conformity with the provisions of this section.

4. The burden of providing qualification for a longer notice period under paragraph a,2. of this subsection, or enhanced relocation benefits under paragraph g. of this subsection, with respect to age,

handicap, and income shall rest with the tenant. Disputes regarding such qualification may be resolved by the Center, with the parties having the right to obtain de novo judicial review by the Housing Court Department, City of Boston Division, within thirty (30) days of the Center's determination. Alternatively, either party may elect to seek direct review by the Housing Court Department, City of Boston Division, of the tenant's qualification for a longer notice period or enhanced relocation benefits without resort to the Center.

b. Form of Notice.

1. No person shall seek or conduct a condominium or cooperative conversion eviction until the expiration of the periods of time for notice to tenants specified in this section. Such notice of termination shall state in clear and conspicuous language the following:

(a) That the premises have been converted to the condominium or cooperative form of ownership and that a master deed has been filed at the registry of deeds for Suffolk County or that articles of organization have been filed with the Secretary of the Commonwealth;

(b) That any tenant residing in the housing accommodation on the date the notice of termination of tenancy is given in the unit or units involved shall have a specific period of time before he or she shall be required to vacate the housing accommodation, and such specific period shall correspond to the provisions of this section.

(c) That any tenant residing in the housing accommodation on the date the notice of termination is given who believes that he or she is entitled to a longer notice period or enhanced relocation benefits by virtue of age, handicap, and/or income shall have the right to request such a longer notice period and enhanced relocation benefits from the owner and/or to establish qualification for such longer notice period and enhanced benefits with the Center or with the Housing Court Department, City of Boston Division, and the manner in which the tenant can go about establishing such qualification;

(d) That any tenant residing in the housing accommodation on the date the notice of

termination of tenancy is given shall have a period of time, which shall be stated in the notice, to purchase such unit on terms and conditions which are substantially the same as or more favorable than those which the owner extends to the public generally for the ninety days following the expiration of the tenant's right to purchase the unit; and

(e) A statement of the rights and obligations specified in paragraphs e, f, g, and h. of this subsection.

c. Procedure After Notice Period Has Elapsed. No action to recover possession of a housing accommodation for the purpose of a condominium or cooperative conversion eviction shall be effective unless a master deed or articles of organization for the building or structure in which the housing accommodation is located has been duly recorded pursuant to the provisions of Chapter 183A, 156B, 157, or 157B of the General Laws of the Commonwealth of Massachusetts, prior to or within the one (1) year period specified in this section for notice to the tenant of such housing accommodations. Upon expiration of the applicable notice period as provided herein, the landlord must prove proof to the Court hearing any summary process action that he has complied with the provisions of this section with respect to recovery of a housing accommodation in order to proceed with a condominium or cooperative conversion eviction. Such proof shall include, but not be limited to, an affidavit of compliance with the provisions of paragraphs e, f, and g. of this subsection; a copy of such affidavit shall also be furnished to the Center and to the tenant at the same time that it is filed as part of the entry of the summary process action.

d. Presumption of Condominium or Cooperative Conversion Eviction; Rebuttal; Procedure.

1. Except as otherwise authorized in this section, any action to recover possession of a housing accommodation or to increase the rent of a tenant in a housing accommodation who was in occupancy at the time of conversion of the property to the condominium or cooperative form of ownership, or at the time of initial sale of the unit as an individual condominium or cooperative unit, shall be presumed to be a condominium or cooperative conversion eviction

where any one (1) or more of the following has occurred:

(a) Any dwelling unit in any building or structure in which the housing accommodation is located has been sold as a condominium or cooperative unit; or

(b) A master deed or articles of organization for the building or structure in which the housing accommodation is located has been duly recorded pursuant to the provisions of Chapter 156B, 157, 157B, or 183A of the General Laws;

(c) A master deed or articles of organization for the building or structure in which the housing accommodation is located is duly recorded pursuant to the provisions of Chapters 156B, 157, 157B, or 183A of the General Laws, or the landlord gives notice of conversion or planned conversion under subsection 10-2.13A of this section, within twelve (12) months after an action is brought to recover such possession or action is taken to increase the tenant's rent;

(d) Any tenant of any unit of housing accommodation in the building or structure wherein the unit or housing accommodation is located has received any notice required by paragraph a. of this subsection.

(e) In any unit converted to a condominium or cooperative, the landlord has increased or is seeking to increase the tenant's rent beyond the increases authorized by paragraph a. of this subsection, unless the landlord shows that his intent is not to facilitate the sale or transfer of the housing accommodation to a prospective purchaser.

2. An eviction shall be presumed to be a condominium or cooperative conversion eviction if the landlord has the intent to convert, as defined herein.

3. A landlord may seek to recover possession of a housing accommodation which has already been converted to the condominium or cooperative form of ownership for just cause other than a condominium or cooperative conversion eviction. The landlord must allege such just cause as part of the notice of termination of tenancy given to the tenant and as part of the summary process

summons and complaint. The landlord shall give notice of the commencement of such summary process action to the Center at the same time the action is entered in court, together with a copy of the notice of termination of tenancy and summary process complaint. The landlord must prove such "just cause" and rebut the presumption of condominium or cooperative conversion as part of his burden of recovering possession. The provisions of this subsection shall apply only where the tenant was in occupancy at the time of conversion of the property to the condominium or cooperative form of ownership.

e. Extension of Rental Housing Agreement; Limitations on Rent Increases During Notice Period.

For any tenant who receives or is entitled to receive a notice as provided in this section, the landlord shall extend the tenant's rental housing agreement upon the expiration thereof. Such extension or extensions shall be for a period or periods of one (1) year or fraction thereof as shall equal the period of notice to which such tenant is entitled pursuant to the provisions of paragraph a. of this subsection. The provisions of such rental housing agreement may not be modified by the landlord except to the extent such modification is required by law and except with respect to the amount of annual rent, any increase in which shall not exceed in any one (1) year, ten (10%) percent, or the percentage increase in the consumer price index during the calendar year immediately preceding the date upon which such rental housing agreement is extended, whichever is less; provided, however, that nothing herein shall limit the right of a property owner to any amounts which may be due under a valid tax escalation clause.

f. Right to Purchase Unit. Any tenant who receives or is entitled to receive a notice pursuant to this subsection shall be given the right to purchase the housing accommodation he or she occupied at the time such notice is delivered on terms and conditions which are substantially the same as, or more favorable than, those which the owner extends to the public generally, or to a third party, whichever is less, for the ninety (90) days following the expiration of said tenant's right to purchase. Such tenant may exercise a right to purchase such housing accommodation by executing a purchase and sale agreement prior to the expiration of ninety (90) days after the date that the tenant receives a copy of the purchase and sale agreement properly executed by the person offering the housing

accommodation for sale. No owner shall unreasonably refuse to enter into, or unreasonably delay the execution of, a purchase and sale agreement with a tenant entitled to a right of first refusal under this section that has made a bona fide offer to meet the price and substantially equivalent terms and conditions of an offer for which notice is required to be given pursuant to this subsection. The time periods herein provided may be extended by agreement between the tenant and the landlord.

The effective period of such right of first refusal shall obtain separately for each substantially different bona fide offer to purchase the housing accommodation during the notice period, and for each offer substantially equivalent to an offer made more than three (3) months prior to the later offer during the notice period; provided, however, that in the case of a substantially equivalent offer made by a prospective buyer who has previously made an offer for which notice was required under this subsection, the right of first refusal shall obtain only if such subsequent offer is made more than six (6) months after the earlier offer.

g. Relocation Benefit. Any tenant who receives or is entitled to receive a notice pursuant to this subsection, who chooses not to exercise the right to purchase the unit he or she occupies pursuant to paragraph f. of this subsection or who does not purchase another unit or units in the same building or buildings, shall, upon vacating said unit within the appropriate notice period as established by paragraph a., be paid by the landlord a relocation expense allowance of three thousand (\$3,000.00) dollars per housing accommodation; provided, however, that if such housing accommodation is occupied in whole or in part by a handicapped tenant or is occupied by an elderly or low or moderate income tenant, the relocation expense allowance shall be five thousand (\$5,000.00) dollars. Such relocation benefits shall be payable within ten (10) days after the date on which the tenant vacates the housing accommodation occupied by him/her; provided, however, that no tenant shall be eligible for such relocation benefits unless all rent due and payable for said unit under the rental agreement or extension of such agreement, if any, has been paid by the tenant prior to the date on which the housing accommodation is vacated and only as long as the tenant voluntarily vacates the housing accommodation on or before the expiration of the notice period. Should the tenant be in arrears but the

relocation expense allowance exceeds the amount of the arrearage, the landlord shall pay the tenant the balance remaining after the arrearage is deducted within such ten (10) day period. The landlord shall file an affidavit of compliance with the Center within thirty (30) days of making any relocation payment under this paragraph, detailing the name and address of the tenant, the amount of payment, and the method of payment.

h. Assistance in Securing Comparable Housing for Elderly, Handicapped, and Low or Moderate Income Tenants. Where an elderly, handicapped, or low to moderate income tenant has received or is entitled to receive a notice pursuant to this subsection, the landlord shall assist the tenant to locate accessible, appropriately sized, comparable rental housing within the City of Boston and, if requested by the tenant, within the same neighborhood of the City of Boston where the tenant resides, for a rent which is equal to or less than the rent which such tenant had been paying for the housing accommodation at the time of receipt of the notice. The Center shall assist landlords and tenants in identifying accessible, appropriately sized, comparable rental housing.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 10; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33; Ord. 1985 c. 11 § 2; Ord. 1986 c. 20 §§ 2, 3, 4, 5; Ord. 1987 c. 6 § 1 [K]; Ord. 1988 c. 9 § 7 [M]; Ord. 1996 c. 3 § 2; Ord. 1999 c. 8 § 2; Ord. 2004 c. 12 § 1) Penalty, see subsection 10-2.17

10-2.11 Removal of Housing Accommodations Regulated.

a. Terms Defined. All terms used herein shall have the meanings defined in Section 1 of Chapter 34 of the Ordinances of 1984, as amended, except that as used herein, the term "housing accommodation" as contained in subsection 10-2.1 shall not include: "mobile homes, trailers, or trailer or mobile lots or lodging, room or boarding house units."

b. Removal of Housing Accommodations Regulated. Except as provided in this subsection, it shall be unlawful for any owner or other person to remove any housing accommodation unless the Board, after hearing, grants a removal permit. The Board may issue such orders and promulgate such regulations as are necessary to effectuate the purposes

of this subsection, and prescribe, consistent with this subsection, the procedure for applications, notice, hearings and the grant and review of removal permits. Provided, however that the requirements of this subsection shall not apply to any building or structure containing no more than two (2) dwelling units or containing no more than three (3) dwelling units, one (1) of which is occupied by the owner thereof as his permanent residence consistent with the requirements of subsection 10-2.1 paragraph b. under the definition of "housing accommodation".

c. *Eviction.* Eviction of tenants from controlled or decontrolled housing accommodations is governed by subsection 10-2.9 as modified by subsections 10-2.10 and 10-2.11. Issuance of a removal permit does not relieve any person of compliance with the eviction procedures contained in this section.

d. *Exceptions.* Except as otherwise required by this section including, but not limited to, the requirements contained in subsection 10-2.12 relating to lodging and rooming houses, no removal permit shall be required for the removal of any housing accommodation for which, on or before May 4, 1988, a master condominium deed or articles of organization for the building in which the housing accommodation is located has been duly recorded pursuant to the provisions of General Laws, Chapters 183A, 156B, 157 or 157B. Such recording shall be prima facie evidence of this exception notwithstanding any error or omission in regard thereto, and the Board shall have no authority to issue, and shall not issue, any certificate with regard to this exception.

1. *Sale or Transfer After Removal.* Once a removal permit has been issued, no additional removal permit is required for subsequent transfers of ownership; provided, however, that all subsequent owners shall be subject to the terms of this section and to the effective terms and conditions of any previously issued removal permit.

e. *Removal Procedure.*

1. *Generally.* A separate removal permit shall be issued for each qualifying housing accommodation. Copies thereof shall be kept on file at the Board and certified copies shall be available upon payment of a reasonable fee.

2. *Criteria.* In reviewing an application for a removal permit the Board shall consider relevant factors including, without limitation; the aggravation of the shortage of safe, decent and affordable housing accommodations in the City and its neighborhoods which may result from the removal, especially for tenants of low and moderate income, and handicapped or elderly tenants. In making such determination the Board shall review and make findings as to all relevant factors including, without limitation, the following:

(a) The benefits and detriments to the persons whom this section and this subsection seek to protect;

(b) The hardships imposed on the tenant(s) residing in the housing accommodation proposed to be removed;

(c) Circumstances demonstrating hardship and inequity to the applicant seeking a removal permit;

(d) The rate of vacancy in the City of Boston at the time the applicant applies for a removal permit.

(e) Substantiated evidence demonstrating the occurrence at the site of the housing accommodation of arson or a suspicious fire, as defined in subsection 10-2.15.

3. *Mandatory Granting of Removal Permit.*

(a) The Board shall grant a removal permit where the applicant demonstrates to the Board by sufficient evidence (i) that the applicant is in compliance with all the requirements of this section; and (ii) that tenants who occupy a majority of all of the units in a building or project and who have resided in the building or project for one (1) year or longer prior to the filing of the removal permit application:

(1) Have unequivocally agreed to purchase such building and convert it to a limited equity cooperative pursuant to General Laws, Chapters 156B, 157 and 157B; or

(2) Have unequivocally agreed to purchase their rental units when they are converted

to a condominium or cooperative unit and have represented that they are intending in good faith to occupy such units as their principal and permanent residences.

(b) For purposes of determining a "majority" under the previous subparagraph, all occupied units in a building or project shall be included and voting shall be done by rental unit with all of the tenants residing in a rental unit treated as a single tenant. All units in a building or project shall be offered for sale to the residing tenants at the same time, at the same or comparable price.

4. Conditions to be Imposed on Removal Permits. The Board shall impose the following conditions, if applicable, when it grants a removal permit. Nothing in this section shall restrict an owner from conveying his/her interest in any building or property or portion thereof provided that the property shall remain subject to the provisions of this section and to the conditions and terms of the last issued removal permit. Once issued, a removal permit shall not be revoked; however, the Board may subsequently modify the terms of a removal permit in accordance with the procedures set forth in paragraph e, 5(a)-(c) of this subsection, and may take such action as is necessary to enforce the terms of the removal permit, as provided in paragraph f. of this subsection.

(a) Right Of First Refusal to Purchase. Any tenant who lives in a housing accommodation for which a removal permit has been granted shall, within sixty (60) days of the date of the grant of the permit or such other time period as shall be established by the Board, be given the right of first refusal to purchase the housing accommodation he/she occupies for substantially the same or more favorable terms and conditions as are being or would be offered to prospective arms length purchasers.

Such tenant may exercise a right of first refusal to purchase such housing accommodation by executing a purchase and sales agreement prior to the expiration of ninety (90) days after the date of receiving a copy of the purchase and sales agreement properly executed by the person offering the housing accommodation for sale. Each time the housing is subsequently offered for sale, the tenant then occupying the housing accommodation shall be offered the right of first refusal to purchase as described above in this section.

(b) Code Compliance. At the time that a removal permit is granted the building must be in, and thereafter, remain in, full compliance with Article II of the State Sanitary Code, the State Building Code, the Boston Fire Prevention Code and any other applicable municipal code, ordinance, or state law, regulating the conditions or occupancy of housing accommodations. Notwithstanding the preceding sentence, if, for good cause, the building is not currently in compliance with any of the above codes, ordinances, or laws, the removal permit must be conditioned upon the applicant's agreement to bring the building and/or unit into such compliance within a specific time period determined reasonable by the applicable enforcement agency.

(c) Maintenance and Repairs. Whenever the housing accommodation is used for rental housing purposes, the owner must designate a person or persons within twenty-five (25) miles of the building to be responsible for maintenance and repairs. The tenant in each unit shall be informed by the owner or his/her agent in writing as to who is responsible for maintenance and repairs, both as to common and individual unit areas, and such notice shall be updated whenever there is a change in tenants or a change in who is responsible for such maintenance:

(d) Rent and Eviction Protections. The granting of a removal permit under this subsection shall not by itself operate to change the classification of the housing accommodation of controlled or vacancy decontrolled and the provisions of this section as the decontrol under paragraph e. of the definition of "housing accommodation" in subsection 10-2.1 shall continue to be in full force and effect. Nothing herein, however, shall extinguish the right of a landlord after the granting of a removal permit to seek decontrol status of a housing accommodation which is voluntarily vacated within the meaning of said paragraph e. of the definition of "housing accommodation" in subsection 10-2.1.

5. Procedures.

(a) The Board shall consider an application for a removal permit for a controlled or decontrolled housing accommodation, or an application to modify the terms of a removal permit previously issued, upon receipt of an application filed by the landlord, owner or other authorized person.

Such application shall be made on a form approved by the Administrator. The Board shall notify the applicant and tenant of the receipt of an application and of the right of either party to request a hearing in writing within fifteen (15) calendar days of the date of such notice. At any time, the Board may, on its own initiative, order a hearing on any application. If a hearing is timely requested by either party, or if the action is undertaken on the initiative of the Board, notice of the time and place of the hearing shall be furnished to the applicant and tenant and the hearing shall be conducted before a designee of the Board. Hearings, final decision and notification of the final decision to the applicant relative to permits shall occur within sixty (60) days of the filing of the request unless the parties otherwise agree. The Board may consolidate applications relating to housing accommodations in the same building or development. The Board may conduct a single hearing on all such consolidated applications. The Administrator may designate a person or persons to participate in a removal proceeding, where appropriate, in order to further the provisions and purposes of this section and to serve the public interest.

(b) Removal permit hearings shall be conducted in accordance with the provisions of Section 11 of Chapter 30A of the General Laws except that requirements (7) and (8) of such Section 11 shall not apply to such hearings.

(c) Notwithstanding any other provision of this section, if a decision regarding a removal permit has been made with regard to such controlled or decontrolled housing accommodation within the preceding twelve (12) months, the Board may, without holding a hearing, refuse to grant a removal permit for that housing accommodation or may dismiss any such application. In addition, if the application is not in conformance with the filing requirement of this section or applicable regulations, the Administrator may administratively dismiss such application without holding a hearing.

f. *Enforcement.* All of the remedies provided in subsections 10-2.16 through 10-2.19 of this section shall be available to the Board for purposes of enforcing subsection 10-2.11. (Ord. 1988 c. 9 § 8) Penalty, see subsection 10-2.17

Editor's Note:

Refer to subsection 10-2.1.

10-2.12 Permits for Removal/Conservations of Housing Accommodations in Lodging Houses and Rooming Houses.

a. *General Rule.* Notwithstanding any other Statute, Ordinance, Code or Law to the contrary, no person shall remove any occupied or vacant, controlled or decontrolled lodging house unit from actual or potential rental housing use, without first obtaining a removal/conversion permit from the Board. Such provisions shall apply whether or not there is a license for such lodging house. The Board may establish reasonable regulations governing the criteria listed in part c. of this subsection and the procedures to be followed regarding application for and issuance of removal/conversion permits. Notwithstanding anything to the contrary contained herein, any lodging house unit, or any lodging house building or structure owned by an educational institution on or before March 30, 1988 and now or hereafter used by such educational institution for dormitory or student housing purposes shall be exempt from the removal permit requirement. Such use shall not constitute a removal.

Further, notwithstanding anything to the contrary contained herein, lodging house units which are newly constructed or converted to lodging house use after the effective date of this subsection 1 and which have not been rented or offered for rent previously as lodging house units shall be exempt from the lodging house removal permit requirement. Said exemption shall have no effect on the operation of all other ordinances and regulations.

b. *Definitions.* See definition for "Dormitory or Student Housing", "Lodging House" and "Lodging House Unit" in subsections 10-2.1.

c. *Removal Permit Criteria.* The Board, in determining whether to grant or deny a Removal/Conversion Permit shall consider the aggravation of the shortage of safe, decent and affordable rental housing units, especially lodging house units, in the City and its neighborhoods which may result from the removal/conversion, especially for low to moderate income, handicapped or elderly tenants.

1. In making such determination, the Board, in its discretion, shall make findings on any or all of the following factors:

(a) The benefits and detriments to the persons whom the ordinance and this subsection seek to protect;

(b) The hardships imposed on the tenant(s) residing in the lodging house units proposed to be removed or converted;

(c) Circumstances demonstrating hardship and inequity to the applicant seeking a permit;

(d) The rate of vacancy in the City of Boston at the time the applicant applies for a permit;

(e) Whether the majority of the tenants are elderly, as defined in subsection 10-2.1 or handicapped, as defined in subsection 10-2.1 or low or moderate income as defined in subsection 10-2.1 or low income as defined in subsection 10-2.1;

(f) Any other relevant factors.

2. Any Removal/Conversion Permit granted by the Board may be subject to such terms and conditions which the Board may require in furtherance of the purposes of the subsection.

d. *Hearings.* Removal/conversion hearing shall be conducted in accordance with the provisions of Section 11 of Chapter 30A of the General Laws except that requirements (7) and (8) of such Section 11 shall not apply to such hearings.

e. *Judicial Review.* All decisions of the Board with regard to removal/conversion permits may be appealed to the District Court Department of the Trial Court for the judicial district within which the housing accommodation is located or the Housing Court Department of the Trial Court, City of Boston Division, within thirty (30) calendar days after the notice of such decision.

f. *Enforcement.*

1. The Superior Court Department of the Trial Court and the Housing Court Department of the Trial Court, City of Boston, shall severally have

jurisdiction to enforce the provisions of this subsection and any rules and regulations promulgated pursuant to this subsection, and may restrain or enjoin violations of this subsection.

2. The Rent Equity Board shall give notice of a hearing within fourteen (14) days from the filing of a petition for a removal permit and shall hold a removal permit hearing within thirty (30) days from the date of the filing of the petition. The Rent Board shall make a decision within forty-five (45) days from the filing of the petition. Should the Rent Board fail to meet the schedule set forth herein, parties may seek an order from the Superior Court or the Housing Court Department of the Trial Court, City of Boston Division requesting an order that the Rent Equity Board make an expedited determination of the petition. Upon finding that the Rent Board has failed to comply with the schedule set forth herein, the court shall order an expedited hearing and determination of the petition.

g. *Transition.* All actions, cases, Board decisions decided or pending under the June 16, 1987 Amendment entitled "PERMITS FOR REMOVAL/CONVERSION OF HOUSING ACCOMMODATIONS IN LODGING AND ROOMING HOUSES" shall be governed as provided for in this subsection:

1. All decisions rendered by the Board under the provisions of June 16, 1987 Amendment shall remain in full force and effect under the provisions of this Amendment.

2. All matters pending before the Board as of the effective date of this subsection shall remain in full force and effect but shall be processed in accordance with the provisions of this Amendment.

3. The provisions of the June 16, 1987 Amendment, shall be treated as remaining in force and effect for the purpose of sustaining in court any proper suit, action or prosecution with respect to any right, liability or offense arising under such Amendment. However any such suit, action or prosecution shall be processed under the provisions of this Amendment.

h. *Effective Date.* This Amendment to Chapter 34 of the Ordinances of 1984 shall be effective immediately upon passage. Matters decided by or pending before the Board and matters decided or

pending in Court shall be treated in accordance with part g.

i. *Severability.* The provisions of this Amendment and the Ordinance it amends (Section 10-2 of the City of Boston Code, Ordinances) shall be severable and if any one or more provisions, or parts or subparts thereof, shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction the decision of such court shall not affect or impair any of the remaining provisions or parts thereof.

(Ord. 1987 c. 6 § 5; Ord. 1988 c. 4 § (i)-(iii); Ord. 1988 c. 7 § 1)

Penalty, see subsection 10-2.17

Editor's Note:

This subsection (ordinance) was adopted by the City Council on May 4, 1988 and approved by the Mayor on May 20, 1988.

This subsection (ordinance) was adopted by the City Council on May 4, 1988 and approved by the Mayor on May 20, 1988.

Chapter 34 of the Ordinance of 1984 is codified as Section 10-2.

10-2.13 Permits for Removal of Mobile Home Accommodations in Mobile Home Parks.

a. Removal Permits Required.

1. It shall be unlawful for an owner of a mobile home park to remove any mobile home accommodation in a mobile home park or discontinue the use of part or all of the land owned and licensed as a mobile home park without having first obtained a mobile home removal permit from the Rent Equity Board subject to the provision contained herein.

2. Such provisions shall apply whether or not the license for such premises is still in effect. The Board may establish reasonable regulations governing the criteria and the procedures to be followed regarding application for and issuance of mobile home removal permits.

b. *Permit Criteria.* In determining whether to grant a removal permit, the Board shall consider the aggravation of the shortage of safe, decent and affordable mobile home park accommodations in Boston, which may result from the discontinuance of use as a mobile home park, especially for tenants of

low or moderate income or elderly persons on fixed incomes. In making such a determination the Board shall review and make findings as to all relevant factors including, without limitation, the following:

1. The benefits and detriments to the persons whom this subsection seeks to protect;

2. The hardships imposed on the tenant(s) residing in the controlled or decontrolled unit proposed to be removed;

3. Circumstances demonstrating hardship and inequity to the applicant seeking a mobile home removal permit;

4. The rate of vacancy in the City of Boston at the time the applicant applies for a mobile home removal permit.

c. Removal Procedure.

1. The Board shall consider an application for a mobile home removal permit for a mobile home park upon receipt of an application filed by the landlord or other authorized person.

2. The Board shall schedule a public hearing within sixty (60) days of receipt of the application. The Board shall notify the applicant and all residents of the mobile home park of the hearing.

3. The mobile home removal permit hearings shall be conducted in accordance with the provisions of Section 11 of Chapter 30A of the General Laws except that requirements (7) and (8) of such Section 11 shall not apply to such hearings.

4. The provisions of Section Five (ii), (iii) and (iv) of Chapter 6, the Ordinances of 1987 shall apply to such hearings.

(Ord. 1987 c. 12 § 13; Ord. 1988 c. 9 § 9) Penalty, see subsection 10-2.17

Editor's Note:

Chapter 6 of the Ordinances of 1987, Section 5, is codified as subsection 10-2.12.

10-2.13A Notice and Reasonable Opportunity to Purchase Units at the Time of Initial Conversion to Condominiums or Cooperatives.

a. *Notice of Planned Conversion.* Where, on or after the date that this subsection is adopted by the City of Boston, a landlord converts or has the intent to convert a housing accommodation to the condominium or cooperative form of ownership, the landlord shall, prior to such conversion and/or the marketing of such condominium or cooperative units, give written notice of such conversion or planned conversion to the tenants residing in such housing accommodations, as well as notice to the Center. The notice shall describe the terms under which the tenants may purchase such property. The notice shall describe the price and the terms of any bona fide offer that the landlord would intend to accept for purchase of the housing accommodations. The Center shall provide information to such tenants of their rights under this section and of available local, State or Federal programs to assist in purchasing such accommodations.

If a tenant who is entitled to receive the notice of intent to convert as required herein vacates the residential unit before the initial sale and transfer of title to the residential unit as a condominium unit has occurred, then the landlord shall give each prospective tenant of the residential unit written notice, prior to the inception of the tenancy, which informs the prospective tenant that the unit is a condominium unit and, if applicable, that the unit is currently being offered for sale or will be offered for sale within ninety (90) days of the inception of the tenancy.

b. *Right of First Refusal on Initial Conversion/Sale of Housing Accommodations as Condominium or Cooperative Units.* Individual tenants shall be given the right to purchase a housing accommodation which is converted or intended for conversion and sale as an individual condominium or cooperative unit on terms and conditions which are substantially the same as, or more favorable than, those which the owner extends to the public generally, or to a third party, whichever is less, for the ninety (90) days following the expiration of said tenant's right to purchase. Such tenant may exercise a right to purchase such housing accommodation by executing a purchase and sale agreement prior to the expiration of

ninety (90) days after the date that the tenant receives a copy of the purchase and sale agreement properly executed by the person offering the housing accommodation for sale. No owner shall unreasonably refuse to enter into, or unreasonably delay the execution of, a purchase and sale agreement with a tenant entitled to a right of first refusal under this section that has made a bona fide offer to meet the price and substantially equivalent terms and conditions of an offer for which notice is required to be given pursuant to this subsection. Failure of the tenant entitled to exercise the right of first refusal to execute such a purchase and sale agreement within the ninety (90) day period shall serve to terminate the right of the tenant to purchase the housing accommodation, and there shall be no right of first refusal at the time of the subsequent sale of such unit; provided, however, the tenant shall still have the right of first refusal in the event of a condominium or cooperative conversion eviction as described in subsection 10-2.10f of this section. The time periods herein provided may be extended by agreement between the tenant and the landlord.

c. *Subsequent Notice and Opportunity to Purchase If Bona Fide Offer Changes.* The right of first refusal created herein shall inure to a tenant for the time periods herein before provided. The effective period of such right of first refusal shall obtain separately for each substantially different bona fide offer to purchase the housing accommodation, and for each offer substantially equivalent to an offer made more than three (3) months prior to the later offer, provided, however, in the case of a substantially equivalent offer made by a prospective buyer who has previously made an offer which notice was required under subsection 10-2.13A of this section, the right of first refusal shall obtain only if such subsequent offer is made more than six (6) months after the earlier offer.

d. *Exemption to Right of First Refusal.* The right of first refusal shall not apply with respect to any offer received by the owner for which notice is not required pursuant to subsection 10-2.13A of this section. No right of first refusal shall apply to a government taking by eminent domain or negotiated purchase, a force sale pursuant to a foreclosure, transfer by gift, devise, or operation of law, or a sale to a person who would be included within the table of

descent and distribution if there were to be a death intestate of the landlord.

e. *Documentation of Compliance.* In any instance in which the tenant is not the successful purchaser of such housing accommodation at the time of conversion to the condominium or cooperative form of ownership, the landlord shall certify compliance with this subsection by filing an affidavit of compliance with the Center within ninety (90) days of the sale of the individual condominium or cooperative unit; a copy of such affidavit shall also be provided to the tenant.

(Ord. 1999 c. 8 § 3) Penalty, see subsection 10-2.17
Editor's Note:

Former subsection 10-2.13A, Removal Permits, previously codified herein and containing portions of Ordinance 1996 c. 3 was repealed in its entirety by Ordinance 1999 c. 8.

10-2.13B Interaction of This Section with Other Law; Transitional Provisions.

a. *Interaction with Other Laws:* This section is only intended to delineate and further define the City's regulation of condominium or cooperative conversions and condominium or cooperative conversion evictions under St. 1983, c. 527, and to not limit the rights of tenants, landlords, or any city agency or authority under any other source of law, contract, or agreement which may regulate such conversions or evictions in any type of housing in the City of Boston. Should a housing accommodation which is subject to the provisions of this section also be subject to protections under other law, the tenant, landlord, or any city agency or authority shall be entitled to rely on all protections that may apply under applicable law.

b. *Conversion of Housing Accommodations After Rent Control Enabling Authority Ended.* Where a housing accommodation was first converted to the condominium or cooperative conversion form of ownership after rent control enabling authority lapsed for such housing accommodation, and prior to the adoption of this section, and the landlord complied with the provisions of section 4 of chapter 527 of the acts of 1983, as amended, regarding notice to tenants of their rights and options with regard to condominium/cooperative conversion evictions, such action shall be deemed to be in compliance with this

section, provided, however, any affected landlord shall notify the Center of such action and the names and addresses of all tenants given such notices within ninety (90) days of the enactment of this section.

c. *Conversion of Housing Accommodations Prior to the Lapse of Rent Control Enabling Authority — Rights of Tenants in Occupancy at the Time of Conversion or Initial Sale.* Where a housing accommodation was first converted to the condominium or cooperative conversion form of ownership prior to the lapse of rent control enabling authority, and as of the effective date of this Ordinance there are elderly, handicapped, or low or moderate income tenants remaining in occupancy who resided there at the time of conversion or initial sale of the housing accommodation as an individual condominium or cooperative unit, such tenants shall be entitled to the benefits and options provided in subsection 10-2.10 of this section.
(Ord. 1999 c. 8, § 4)

Editor's Note:

Former subsection 10-2.1313, Regulations and Enforcement, previously codified herein and containing portions of Ordinance 1996 c. 3 was repealed in its entirety by Ordinance 1998 c. 8.

10-2.14 Duties of the Board.

Certified copies of all policies, rules, and regulations of the Board shall be forwarded to the City Clerk who shall forward them forthwith to the City Council.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 11; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33)

10-2.15 Suspicious Fires.

In the event that any owner of property under conversion to condominiums or cooperatives suffers loss in three (3) or more such properties because of fire, the records of the Building Department and the Assessing Department shall indicate such conditions by the addition of the plans, maps, printouts, and records of the City of the words "loss by fire" on the affected structures. Any fire in a unit undergoing conversion determined by the Fire Commissioner to be a suspicious origin shall be identified in said plans,

maps, printouts, and records by the addition of the words "suspicious fire."

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 12; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33)

10-2.16 Civil Remedies.

a. Any person who demands, accepts, receives, or retains any payment of rent in excess of the maximum lawful rent, in violation of the provisions of this section, or any rule, regulation or order hereunder promulgated, shall be liable as hereinafter provided to the person from whom such payment is demanded, accepted, received, or retained, or to the City for reasonable attorney's fees and costs as determined by the court, plus liquidated damages in the amount of one hundred (\$100.00) dollars, or not more than three (3) times the amount by which the payment or payments demanded, accepted, received, or retained exceed the maximum rent which could be lawfully demanded, accepted, received, or retained, whichever is the greater; provided, however, that if the defendant proves that the violation was neither willful nor the result of failure to take practicable precautions against the occurrence of the violation, the amount of such liquidated damages shall be the amount of the overcharge or overcharges.

b. If the person from whom such payment is demanded, accepted, received, or retained in violation of the provisions of this section or any rule, regulation, or order hereunder promulgated, fails to bring an action under this section within thirty (30) calendar days from the date of the occurrence of the violation, the Board may settle the claim arising out of the violation or bring such action upon its own initiative. Settlement by the Board shall thereafter bar any other person from bringing action for the violation or violations with regard to which a settlement has been reached. In the event the Board settles said claim, it shall be entitled to retain the costs it incurred in the settlement thereof, and the person against whom the violation has been committed shall be entitled to the remainder. In the event the City initiates action pursuant to the provisions of this subsection, it shall be entitled to receive attorneys' fees and costs pursuant to the provisions of paragraph a. and the person against whom the violation was committed shall be awarded

liquidated damages pursuant to the provisions of said paragraph a.

c. A judgment for damages or on the merits in any action initiated pursuant to this subsection shall be a bar to any recovery pursuant to this subsection or in any other action against the same defendant on account of any violation with respect to the same person prior to the initiation of the action in which such judgment was rendered. Action to recover liquidated damages pursuant to the provisions of this subsection shall not be brought later than one year after the date of violation. A single action for damages pursuant to the provisions of this subsection may include all violations of the provisions of this subsection committed by the same defendant against the same person.

d. The District Court Department of the Trial Courts for the judicial district within which the housing accommodation affected is located and the Housing Court Department of the Trial Courts, City of Boston Division, shall severally have concurrent original jurisdiction over all actions and complaints initiated pursuant to this subsection.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 13; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33)

10-2.17 Criminal Penalties.

a. It shall be unlawful for any person to demand, accept, receive, or retain any rent for the use or occupancy of any housing accommodations in excess of the maximum rent prescribed therefor pursuant to the provisions of this section or any rule, regulation or order hereunder promulgated, or otherwise to do or omit to do any action in violation of the provisions of this section or the rules, regulations or orders hereunder promulgated. It shall be unlawful for any person by act or omission knowingly to engage in any conduct tending to deprive a tenant of, or to prevent a tenant from exercising, any right conferred by this section, including without limitation, any such conduct tending to deprive a tenant of the peace, comfort, or enjoyment of a housing accommodation in violation of this section and any such conduct intended to result in substantial

inconvenience or amounting to a violation of privacy, harassment, intimidation, threat, or coercion.

b. It shall be unlawful for any person to demand, accept, receive, or retain any payment which exceeds the maximum lawful rent for one month as a finder's fee or service charge for the opportunity to examine or lease any housing accommodation; provided, however, no finder's fee or service charge shall be lawful unless the person from whom the payment is demanded, accepted, received or retained actually rents or leases the housing accommodation with regard to which payment of said fee or said charge has been demanded, accepted, received or retained.

c. Whoever willfully violates any provision of this section or any rule, regulation or order hereunder promulgated or whoever knowingly makes any false statement in any testimony before the Board or whoever knowingly supplies any false information or knowingly makes false statement to, or files a false affidavit with, the Board shall be punished by a fine of not more than five hundred (\$500.00) dollars or by imprisonment for not more than ninety (90) days or both; provided, however, that in the case of a second or subsequent offense, such person shall be punished by a fine of not more than three thousand (\$3,000.00) dollars or by imprisonment for not more than one year or both.

d. The District Court Department of the Trial Courts for the Judicial district within which the housing accommodation affected is located and the Housing Court Department of the Trial Courts, City of Boston Division, shall severally have concurrent jurisdiction over all such actions and complaints.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 14; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33)

10-2.18 Judicial Review.

All decisions of the Board, except as otherwise provided in this subsection, may be appealed to the District Court Department of the Trial Courts for the judicial district within which the housing accommodation is located or to the Housing Court Department of the Trial Courts, City of Boston Division, within thirty (30) calendar days after the

date of such decision; provided, however, that this section shall not be construed to provide a right of appeal of a general adjustment decision pursuant to subsection 10-2.5a.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 15; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33)

10-2.19 Injunctions.

The Superior Court Department of the Trial Courts and the Housing Court Department of the Trial Courts, City of Boston Division, shall severally have jurisdiction to restrain by injunction any violation of this section or any rule, regulation, or order hereunder promulgated.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 16; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33)

10-2.20 Effective Date and Duration.

This section shall become effective as of the date signed by the Mayor and shall remain in effect until December 31, 2014 or until a prior determination by the Mayor and City Council that the present rental housing emergency no longer exists.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 17; Ord. 1969 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33; Ord. 1999 c. 3; Ord. 1999 c. 8 § 5; Ord. 2004 c. 12 § 2; Ord. 2009 c. 9)

10-2.21 Constitutional Construction.

The provisions of this section are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 18; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33; Ord. 1993 c. 7)

10-2.22 Transitional Provisions.

a. *Scope.* Repeal of Chapter 1. Except as otherwise provided herein, Chapter 1 of the Ordinances of 1983, as amended, is hereby repealed

as of the effective date of this ordinance. All matters initiated under Chapter 1 which are pending before or decided by the Board, or pending before any court, or any valid condominium or cooperative conversion eviction notice or related offer, or additional year notice ruling initiated under the provisions of Chapter 1 or any rule, regulation or order thereunder promulgated shall be governed as provided for in this subsection.

b. Notices Sent and Matters Pending Before or Decided by the Board.

1. All decisions rendered by the Board under the provisions of Chapter 1 of the Ordinances of 1983, as amended, shall remain in full force and effect under the provisions of this section.

2. Notwithstanding any provisions of this section to the contrary, all matters pending before the Board as of the effective date of this section shall remain in full force and effect but shall be processed in accordance with the provisions of this section.

3. The provisions of said Chapter 1 of the Ordinances of 1983, as amended, shall be treated as remaining in force and effect for the purpose of sustaining in court any proper suit, action or prosecution with respect to any right, liability or offense arising under such section.

4. All valid condominium or cooperative conversion eviction notices or related offers given prior to October 3, 1984 pursuant to Chapter 1 of the Ordinances of 1983, as amended, and the applicable regulations thereunder, shall be treated as remaining in full force and effect where such notices or offers comply with the provisions of said Chapter 1 of the Ordinances of 1983, as amended.

(a) Condominium or cooperative conversion eviction notices or related offers given pursuant to Chapter 1 of the Ordinances of 1983 to tenants qualifying as low income, low or moderate income elderly, or low or moderate income handicapped under the provisions of this ordinance on the date such notice or offer was received shall be null and void and those tenants shall be entitled to the eviction ban protections of subsection 10-2.10f, of this section.

(b) The provisions of paragraph (a) above shall not apply where prior to October 3, 1984 a binding purchase and sales agreement has been executed for a specific unit and a deed has been duly recorded transferring title of such unit to an owner who certifies under oath to the Board within forty-five (45) days of the effective date of this ordinance that he or she intends to occupy the unit as his or her permanent residence. If any person so certifying shall fail to occupy said unit as his or her principal residence and place of domicile within ninety (90) days of the date the unit becomes vacant, such failure shall be determined an unfair and deceptive practice and a violation of this Chapter. Whoever willfully and falsely certifies that they intend to be an owner occupant, under the provisions of this subsection, shall be subject to a fine of two hundred (\$200.00) dollars per day for each day the offense exists or by imprisonment for a period not to exceed one (1) year or both.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 19; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33; Ord. 1985 c. 5 § 1)

10-2.23 Renumbering Allowed by City Clerk.

The sections of this ordinance and references thereto may be renumbered by the City Clerk for the purpose only of conforming it to the City of Boston Code.

(Ord. 1972 c. 19; Ord. 1974 c. 13; CBC 1975 Ord. T10 § 20; Ord. 1979 cs. 29, 37; Ord. 1981 c. 8; Ord. 1982 cs. 15, 16, 17, 26, 37; Ord. 1983 cs. 1, 9, 17, 23, 33)

10-3 BOSTON FAIR HOUSING COMMISSION.

10-3.1 Policy of the City of Boston.

It is the policy of the City of Boston to see that each individual, regardless of his/her race, color, religious creed, marital status, military status, handicap, children, national origin, sex, gender identity or expression, age, ancestry, sexual preference or source of income shall have equal access to housing and to encourage and bring about mutual understanding and respect among all

individuals in the City by the elimination of prejudice, intolerance, bigotry and discrimination in the area of housing.

(Ord. 1982 c. 10; Ord. 2002 c. 9)

10-3.2 Establishment of the Boston Fair Housing Commission, Executive Director, Staff.

There shall be in the City a Commission known as the Boston Fair Housing Commission hereinafter called the Commission, which shall be under the charge of a Board, known as the Fair Housing Commission, hereinafter called the Commission, consisting of five (5) members, known as Fair Housing Commissioners, each appointed by the Mayor.

The Commission shall consist of five (5) members appointed by the Mayor for a term of three (3) years, provided, however, that of the members first appointed to the Commission, two (2) shall be appointed to a term of one year, two (2) shall be appointed for a term of two (2) years, and one shall be appointed for a term of three (3) years. Thereafter, the Mayor shall appoint each successor to a term of three (3) years. Any vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term.

All members of the Boston Fair Housing Commission shall be residents of the City of Boston at the time of their appointment and throughout their tenure and they shall be deemed special municipal employees for the purposes of Chapter 268A of the General Laws. At least one Commissioner shall be a tenant who, at the time of his/her appointment, shall be eligible on the basis of income for assisted housing in the City of Boston. At least one Commissioner shall be an individual regularly engaged in the business of sale and/or rental of residential real estate in the City of Boston. At least one Commissioner shall be a member of the Board or a senior administrator of a community-based, non-profit organization in the City of Boston which seeks to address the housing needs and issues of its community, and at least one Commissioner shall be demonstrated governmental experience in civil rights.

A Chairperson of the Commission shall be annually designated by the Mayor with the advice of

the Commission. Three (3) members shall constitute a quorum for the purpose of conducting the business thereof, but three (3) votes shall be required to pass any Commission decision. Reasonable per diem compensation for Commission members shall be determined by ordinance and each member shall also be entitled to his/her expenses actually and necessarily incurred in the performance of his/her duties.

There shall be in the Department an Officer, hereinafter called the Director of the Commission, appointed by the Commission, and such other personnel as the Commission may from time to time deem expedient.

The Director shall be the Executive Officer of the Commission and shall have such powers and perform such duties as the Commission shall from time to time determine. The Commission may delegate to, and recall from, the Director, whenever the Commission deems it expedient, the power to make contracts or any or all of its other powers, as the Commission may from time to time determine.

(Ord. 1982 cs. 10, 33)

10-3.3 Function; Powers and Duties of the Commission.

The function of the Commission shall be to implement the policy of this section, by the exercise of the following powers and duties:

a. To receive and investigate complaints of, and to forthwith transmit by ordinary mail for filing with the Massachusetts Commission Against Discrimination ("MCAD") a copy of said complaints filed with the Commission, and to initiate its own investigation of:

1. The denial of equal access to, and discrimination in housing (regardless of the public or private source of such denial and discrimination), where such denial or discrimination against either an individual or a group is based on race, color, religious creed, marital status, handicap, military status, children, national origin, sex, gender identity or expression, age, ancestry, sexual preference or source of income.

2. The presence in the City of prejudice, intolerance, bigotry, discrimination in the area of housing.

b. To attempt by mediation to resolve any housing discrimination complaint over which it has jurisdiction and to recommend to all appropriate governmental agencies, federal, state, or local, such action as it feels will resolve any such complaint or in the case of any housing discrimination investigation which would be aided thereby, to hold hearings, summons witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any evidence relating to any matter in questions or under the investigation before the Commission. The power to summon witnesses as defined herein shall be limited to those powers and procedures as set forth in M.G.L.A. c. 233 s. 8. At any hearing before the Commission, or any Committee thereof, a witness shall have the right to be advised and represented by counsel present during any hearings.

c. After completion of any investigation or hearing on any complaint or matter not resolved by mediation, to make a written report of its findings and recommendations to the Mayor and the City Council; and to the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction; or to any court or other governmental agency having jurisdiction of the matter in question, and in all cases urging and using its best efforts to bring about compliance with its recommendations.

d. To issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination in housing because of race, color, religious creed, marital status, military status, children, handicap, national origin, sex, gender identity or expression, age or ancestry, sexual preference or source of income. All records shall be public except those that are necessary to insure privacy rights under other local; State, or Federal laws, those records that must be kept confidential in compliance with laws and rules of evidence, and those records containing unsubstantiated allegations reflecting on the character of any person.

e. To cooperate with Federal, State and City agencies, in developing courses of instruction for presentation in public and private schools, public libraries, and other suitable places, devoted to eliminating prejudice, intolerance, bigotry and discrimination in housing and showing the need for

mutual self-respect and the achievement of harmonious relations among various groups in the City of Boston, and to enlist the cooperation of the various racial, religious and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to effectuate the policy of this section.

f. To create such subcommittees from the members of the Commission as, in the Commission's judgment, will best aid in effectuating the policy of this section and to empower such subcommittee to study the problems of prejudice, a intolerance, bigotry, and discrimination in housing prevailing in the City of Boston.

g. To make such recommendations to the Mayor and City Council as, in its judgment, will effectuate the policy of this section and annually to make a written report to the Mayor and City Council of its activities, and to appear quarterly to make an oral report to the City Council.

h. To perform such other duties as may be prescribed under law.
(Ord. 1982 c. 10; Ord. 2002 c. 9)

10-3.4 Relations with City Agencies.

So far as practicable, the services of all other City Departments, Agencies and Commissions shall be made available to the Commission for effectuating the policy of this section.

The head of any Department, Agency or other Commission shall furnish information in the possession of such Department, Agency or Commission when the Commission so requests and where such information relates to the duties and responsibilities of the Commission.
(Ord. 1982 c. 10)

10-3.5 Rules and Regulations of the Commission.

The Commission may adopt rules and regulations consistent with this section and the laws of the Commonwealth to carry out the policy and provisions of this section and the powers and duties of the Commission in connection therewith.

The Commission shall adopt rules of procedure for the conduct of its investigations and hearings. Said rules shall ensure the due process rights of all persons involved in the investigations and hearings.

Any person or persons appearing before the Commission who avails himself/herself or themselves of constitutional guarantees shall not be punished in any way by his/her availing himself/herself of such constitutional guarantees.

No complaint shall be considered unless it is filed with the Commission within one hundred eighty (180) days after the occurrence of the alleged discriminatory practice.
(Ord. 1982 c. 10)

10-3.6 Severability.

If any provision or subsection of this section shall be held to be invalid, then such provision or subsection shall be considered separately and apart from the remaining provisions or subsections of this section, which shall remain in full force and effect.
(Ord. 1982 c.10)

10-4 EMERGENCY SHELTER COMMISSION.

10-4.1 Composition of Board.

There shall be in the City a Commission, known as the Emergency Shelter Commission, which shall be under the charge of a Board consisting of the Director of Public Facilities or his designee, the Commissioner of Health and Hospitals or his designee, and three (3) Commissioners, appointed by the Mayor, at least one of whom shall be affiliated with an organization or agency which, as a principal activity, provides emergency shelter to homeless individuals, and at least one of whom shall have demonstrated experience in assisting members of families disrupted by intrafamily violence.

Each Commissioner shall serve a term of three (3) years, provided, however, that of the members first appointed to the Commission one shall be appointed to a term of one year, one shall be appointed to a term of two (2) years, and one shall be appointed to a term of three (3) years. Thereafter, the

Mayor shall appoint each successor to a term of three (3) years. Any vacancy in office of a Commissioner shall be filled in like manner for the unexpired term.

The Commission shall elect one of its member as Chairperson to serve in that capacity for a term of one year.

The Commission shall be authorized to hire a Director and such other staff as from time to time is deemed necessary by the Commission.

The Commissioners shall serve without compensation and shall be deemed special municipal employees for the purposes of Chapter 268A of the General Laws.
(Ord. 1983 c. 4)

10-4.2 Powers and Duties.

The Commission shall create and maintain an Assistance Information Center in conjunction with appropriate public and private agencies and organizations which provide information and assistance to homeless people; shall work with appropriate public and private agencies or organizations which provide food and shelter to homeless people to coordinate the efforts of such agencies or organizations; shall operate a twenty-four (24) hour telephone information service to disseminate information among such shelter providers; shall keep daily up-to-date lists of beds available in crisis or family shelters; shall keep up-to-date lists of transitional housing opportunities, detoxification centers, lodging houses, and the location of food pantries; shall work in conjunction with City departments, agencies and other commissions to effectuate the use of vacant public buildings or tax-foreclosed buildings as temporary shelter for homeless individuals and families; shall submit quarterly written reports to the Mayor and City Council regarding the sheltering of homeless individuals and families, services provided by private and public agencies or organizations to homeless individuals and families, and the development of increased shelter during weather or other emergencies.
(Ord. 1983 c. 4; Ord. 1985 c. 14)

10-4.3 Severability.

The provisions of this section are severable and if any provision shall be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this section, which shall remain in full force and effect.

(Ord. 1983 c. 4)

10-5 INSTITUTIONAL EXPANSION BOARD.**10-5.1 Established; Members; Terms; Qualifications.**

a. There shall be a Board within the Administrative Services Department to be called the Institutional Expansion Board.

The Board shall have nine (9) members, each appointed by the Mayor, as hereinafter provided. Six (6) shall be appointed from a list of not less than twelve (12) persons determined eligible by the City Council to represent areas of the City especially impacted by institutional uses. To the extent the City Council shall determine practical, each such shall be a president or nominee of civic associations of such neighborhoods. Two (2) shall be appointed from a list of not less than four (4) residents of such neighborhoods determined eligible by the City Council; and one shall be an officer of a tax-exempt institution having an office in the City of Boston. All members shall be residents of the City of Boston and no member, or member's immediate family, shall be an employee of the City of Boston or a public institution, except for the institutional representative. Those persons who are appointed by virtue of being an officer of a civic association as described above need not hold such office for the duration of their appointment to the Board. As any vacancy occurs it shall be filled in like manner as the original appointment. In those cases where the City Council shall determine eligibility, it shall find eligible not less than two (2) persons for each vacancy to be filled. During the first three (3) years of the effectiveness of this ordinance, civic associations in the following neighborhoods shall be among those represented on the Board; Alston-Brighton, Audubon Circle, Back

Bay-Beacon Hill, Chinatown, Dorchester, Fenway and Mission Hill.

(Ord. 1983 c. 12; Ord. 1984 c. 3)

10-5.2 Powers and Duties.

The Board shall have the following powers:

a. To investigate expansion by public institutions and the effect of such expansion on the City's neighborhoods and the supply of decent, affordable housing in the City.

b. To publish reports and conduct hearings on expansion of public institutions.

c. To advise other City Boards and Departments with respect to expansion by public institutions.

d. To make recommendations for preventing expansion by public institutions which results in the removal of decent, affordable housing from the City's housing market or which adversely affects a neighborhood of the City.

(Ord. 1983 c. 12)

10-5.3 Application Notice to be Sent to the Board.

The Board of Appeal, the Public Improvement Commission, the Zoning Commission, the Inspectional Services Department and the Boston Redevelopment Authority shall give prompt notice to the Board of each application of a public institution for a permit, license or other public approval.

(Ord. 1983 c. 12)

10-5.4 Terms of Members.

The terms of the members of the Board shall be as follows: For those persons who are initially appointed to the Board following enactment of this section.

- Those six (6) persons who are appointed from a list of not less than twelve (12) determined eligible by the City Council, three (3) years;

- The remaining three (3) persons, two (2) years.

(Ord. 1983 c. 12)

10-5.5 Election of Chairman; Expenses of Members.

The Board annually in May shall elect one of its members as Chairman and another as Vice-Chairman. The Board shall also elect a Secretary, who need not be a member of the Board. The members of the Board shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties. The Board shall cause to be made a detailed record of its proceedings, which record shall include the vote of each member participating in its decisions, and the absence of a member or a member's failure to vote. The Board shall not be subject to the supervision or control of the Director of Administrative Services.
(Ord. 1983 c. 12)

10-5.6 Definition.

As used in this section:

Public Institution shall mean any educational, literary, benevolent, charitable, health or scientific organization eligible to hold property exempt from taxation under M.G.L. Chapter 59, Section 5, including corporations, partnerships and trusts controlled or operated for the benefit of such institutions, but excluding therefrom religious organizations as defined under M.G.L. Chapter 59, Section 5, Clause 11.
(Ord. 1983 c. 12)

10-6 DECLARING A STATE OF EMERGENCY AND ESTABLISHING CONTROLS RELATIVE TO INSTITUTIONAL EXPANSION.

10-6.1 Declaration of Emergency.

A serious public emergency exists in the City of Boston which has been accentuated by the use by tax-exempt institutions of buildings having or potentially having a residential use. Such use has (a) contributed to the removal of residential housing from the market while a severe shortage exists; (b) contributed to the destruction and decay in affected residential neighborhoods; (c) created areas of the City where public order is difficult to enforce; and (d) deprived the City of needed tax revenues. In addition,

this emergency cannot be dealt with solely by the operation of the private rental housing market nor by existing ordinances and unless the removal of residential units is additionally regulated and controlled, such emergency and the displacement resulting therefrom will produce serious threats to the public health, safety and general welfare of the citizens of Boston. Furthermore, public regulation is necessary in order to provide residents with a sufficient supply of decent, affordable housing, to strengthen residential neighborhoods, to encourage public order and to preserve the City's tax base. Now, therefore, pursuant to the authority vested in it by law, including without limitation, Article 2, as amended, and Articles 47 and 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts and Chapter 797 of the Acts of 1969, as amended, Chapter 450 of the Acts of 1889, Chapter 355 of the Acts of 1960, Chapter 256 of the Acts of 1953, Chapter 22 of the Acts of 1949, Chapter 473 of the Acts of 1953 and Chapter 314 of the Acts of 1962 and M.G.L. Chapter 40 and Chapter 140, ss. 22-26 be it ordained by the City Council of the City of Boston as follows;
(Ord. 1982 c. 39)

10-6.2 Definitions.

As used in this section:

"Board" shall mean the Board established to exercise powers conferred by Chapter 797 of the Acts of 1969, as amended, and any successor to that Board.

"Institutional Expansion Board" shall mean the Institutional Expansion Board of the City of Boston.

"Public Institution" shall mean any educational, literary, benevolent, charitable, health or scientific organization, eligible for exemption from taxation under M.G.L. ch. 59, s. 5, including corporations, partnerships and trusts controlled or operated for the benefit of such institutions, and any natural or non-natural person acting for the purpose of, or in anticipation of, transferring control of one or more residential units to any such organization, but excluding therefrom religious organizations as defined under M.G.L. ch. 59, s. 5, clause II.

"Removal from Market" shall mean:

a. As applied to a residential unit, includes but is not limited to action of a public institution in:

1. The occupancy of any such unit for any nonresidential use. For the purposes of this section, occupancy by students, faculty, staff or employees of a public institution, or any use not for residential purposes, shall constitute a nonresidential use.

2. The demolition of a building containing residential units, except pursuant to lawful government order; or

3. The rehabilitation, repair or improvement of a structure containing residential units, other than as required by the laws of the Commonwealth or the City, in such a way as to eliminate such units from the residential rental market; or

4. The application for a building permit to establish a different legal occupancy for a structure containing residential units; or

b. The eviction of a tenant, except for just cause determined by the Board on application of the owner, provided that just cause shall not be in conflict with this section.

c. Notwithstanding the foregoing, "Removal from the Market" shall not include any rehabilitation, repair, improvement or demolition where the owner covenants in writing with the Board to restore such unit to the residential real estate market following such rehabilitation, repair, improvement or demolition.

"Residential Unit" shall mean any unit with respect to which the City can, under Chapter 797 of the Acts of 1969, as amended, exercise rent and/or eviction controls, whether or not the City has heretofore exercised such controls.
(Ord. 1982 c. 39)

10-6.3 Removal Regulated.

In order to provide residents of the City of Boston with a sufficient supply of decent, affordable housing, to strengthen residential neighborhoods, to encourage public order and to preserve the City's tax

base, no public institution shall remove from the market any residential unit, unless the Board after a public hearing grants a permit therefor. The Board may issue orders and promulgate regulations to effectuate the purposes of this subsection, and to prescribe the procedure for applications, notice, hearings, and the granting and withdrawal of permits. Copies of each application received hereunder shall be submitted for comment to the Institutional Expansion Board, the Police Commissioner and the Fire Commissioner.

(Ord. 1982 c. 39)

10-6.4 Considerations.

In deciding whether to grant a permit under this section, the Board shall grant a permit under this section only if:

a. No significant hardship will be imposed on the tenants residing in the residential units proposed to be removed;

b. No significant aggravation of the shortage of decent rental housing accommodations, especially for families of low and moderate income and elderly people on fixed incomes, will result from the removal;

c. No significant negative or adverse effect on the neighborhood in which the unit is located will result; and

d. The benefits to the Public Institution seeking the permit will outweigh clearly and convincingly the adverse effects of such removal.
(Ord. 1982 c. 39)

10-6.5 Penalties.

Any person who violates this section shall be punished by a fine of not more than five hundred (\$500.00) dollars. The removal of each residential unit shall constitute a separate violation. In addition, any violation hereof which continues for more than thirty (30) days shall be punished by a fine for every day beyond such thirty (30) days of two hundred (\$200.00) dollars a day.

(Ord. 1982 c. 39)

10-6.6 Equitable Relief.

The Board or any person aggrieved by a failure to comply with this section may enforce its provisions in a civil action for injunctive or declaratory relief. (Ord. 1982 c. 39)

10-6.7 Rules and Regulations; Promulgation of.

The Board shall have the power to promulgate standards and regulations to effectuate the purpose of this section, which purpose is ameliorating the above emergency. (Ord. 1982 c. 39)

10-6.8 Publishing of Reports Showing Payments in Lieu of Taxes from Tax-Exempt Institutions.

The Collector-Treasurer shall publish biannually in the City Record and deliver to the City Council on the first day of June and December in each year reports showing payments received in lieu of taxes from tax-exempt institutions for each assessable parcel, the fair market value of such properties and the percentage of value received in lieu of taxes. In addition, such reports shall identify the agreement pursuant to which such payments are being received by the City. Copies of such agreements shall be made available during business hours to the public in a convenient location in City Hall. The Assessor shall furnish the Collector-Treasurer with the assessments required to be published at least thirty (30) days prior to the publishing. (Ord. 1982 c. 39)

10-6.9 Dormitory Licensing and Registration.

a. No building owned or constructively controlled by a public institution as defined in subsection 10-6.1 and occupied in whole or in part as a residence for faculty, staff and students of an institution, and no building twenty-five (25%) percent of which is rented by a college or university for residential purposes shall be occupied without a license pursuant to the provisions of this section. Hereafter, such buildings are referred to as "dormitories," notwithstanding the fact that such

buildings may not be dormitories within the meaning of another code or ordinance of the City.

b. The Commissioner of Inspectional Services shall be responsible for the annual licensing of all dormitories. The Commissioner shall issue a license for each such building following inspection thereof provided:

1. It complies with the State Building Code, State Sanitary Code and the Boston Zoning Code as evidenced by an appropriate established legal occupancy and a dormitory license issued by the Licensing Board for the City of Boston; and

2. It complies with the provisions of this subsection as evidenced by a validly issued removal permit, or evidence that such structure met the above paragraph b. of this subsection prior to December 31, 1982; and

3. The Public Institution which operates or proposes to operate the structure provides clear and convincing evidence of its ability to operate such structure in a manner consistent with the public health, safety and welfare. In order to ensure that the public health, safety and welfare have been fully satisfied, the Commissioner shall hold a public hearing with respect to any dormitory for which a license has been requested upon the written petition of ten (10) residents of the City of Boston.

c. In order to more fully protect the occupants of dormitories and neighbors thereto, the owner of each dormitory shall:

1. Post and maintain on such structure adjacent to the mailboxes for such dwelling or elsewhere clearly visible to residents and non-residents a notice, not less than twenty (20) square inches in size bearing the information required by M.G.L. ch. 143, s. 35 and the names and telephone number of (A) the person(s) supervising said dormitory for the college or university administrative office; and (B) the resident described in paragraph 2. below.

2. Have a person of legal age resident in each dormitory responsible for emergencies.

3. Conspicuously post its license under this subsection in the location required by subsection 10-6.9c.,1.

d. The annual fee for each such license shall be fifty (\$50.00) dollars plus five (\$5.00) dollars for each bed or sleeping place contained therein.

e. The license required by this subsection shall be in addition to any and all other licenses which may be required by any other law, ordinance or regulation, it being the intent hereof to establish additional controls with respect to institutional use and to that end this section shall be construed as supplementing prior enactments rather than replacing any of them. (Ord. 1982 c. 39) Penalty, see subsection 10-6.5

10-6.10 Inspection of Dormitories; Permit.

The Fire Commissioner or his designee shall annually inspect each dormitory herein to ensure full compliance with all fire and safety regulations. If a dormitory is in full compliance with said regulations, the Commissioner shall issue a permit which permit shall be prominently posted. The fee for each such permit shall be fifty (\$50.00) dollars. (Ord. 1982 c. 39)

10-6.11 Biannual Report of the Police Commissioner.

The Police Commissioner shall prepare a biannual report to be published in the *City Record* and delivered to the City Council on the first day of June and December in each year reporting (1) the number of incident reports of public complaints with respect to noise and public disorder with respect to dormitories, including particular problem areas; (2) the number of fires in dormitories; (3) the number of incident reports of complaints regarding uncollected refuse attributable to occupants of dormitories; (4) a summary of the number of students resident in Boston arrested within the City; and (5) the number of crimes occurred in or attributable to occupants of dormitories. Such report shall contain recommendations concerning the improvement of public order at and around dormitories. (Ord. 1982 c. 39)

10-6.12 Effectiveness and Severability.

a. *Effectiveness.* This section shall take effect upon its passage and shall remain in effect until the above declaration of a state of emergency is revoked by the City Council.

b. *Severability.* The provisions of this section are severable. If a court declares invalid any such provision or the application of such provision to any person or circumstance, the invalidity shall not affect the validity of any other provision or application. (Ord. 1982 c. 39)

10-7 NEIGHBORHOOD IMPACT COMMISSION.

10-7.1 Members; Qualifications.

There shall be in the City a Board known as the Neighborhood Impact Commission, consisting of the following persons or his or her designee: two (2) members of the Mayor's Office who advise the Mayor on housing and development issues; the Commissioner of the Assessing Department; the Administrator of the Rent Equity Board; the Director of the Boston Redevelopment Authority; the Executive Secretary of the Board of Appeal; and up to three (3) other persons to assure the Board reflects the racial composition of the City; the President of the City Council; and one member who shall be the District City Councillor from each district, who shall be a "floating member" who shall sit on the Commission where issues relative to his or her district are concerned. (Ord. 1984 c. 28)

10-7.2 No Compensation or Expenses Allowed.

All members of the Commission shall serve ex officio and shall receive no additional compensation or expenses for their service on the Commission. The members of the Commission shall be classified as special municipal employees for the purposes of General Laws, Chapter 268A. (Ord. 1984 c. 28)

10-7.3 Duties.

The Commission shall meet at least once each month for purposes of coordinating as fully as possible the activities of the City with regard to institutional expansion. At each of its regular meetings the Commission shall receive all reports and discuss all matters relating to institutional expansion with the Chairperson of the Institutional Expansion Board or his or her designee.

All members of the said Commission shall be subject to the Residency and Voter Registration ordinance with respect to principal officers, notwithstanding any exception therein contained. (Ord. 1984 c. 28)

10-8 NEIGHBORHOOD HOUSING TRUST.

10-8.1 Establishment.

The Collector-Treasurer shall establish the "Neighborhood Housing Trust", which trust shall be established in the form and manner of the attached Declaration of Trust; and that, subject to approval by the City Council and the Mayor, the Neighborhood Housing Trust be and hereby is authorized to accept and expend any and all funds contributed to it consistent with the purposes of the Declaration of Trust attached hereto and filed herewith. (Ord. 1986 c. 7, § 1)

Editor's Note:

A copy of the "Declaration of Trust" shall be kept on file in the Office of the Boston City Clerk and shall be available for public inspection.

10-9 BOSTON RESIDENT PREFERENCE IN HOUSING PROGRAMS.

10-9.1 Purpose.

These sections seek to supplement and clarify the various housing programs within the City of Boston by codifying a preference for Boston residents that participate. (Ord. 2002 c. 11)

10-9.2 Definitions.

a. *Boston resident* shall mean any individual who maintains a primary residence (i.e. normally eats, sleeps, and maintains personal and household effects) in the City of Boston. This definition shall include those persons that are commonly known and/or agency-verifiable as homeless and subsisting within the City of Boston.

b. *Homeless* shall mean any person or persons that have no home, permanent place of residence, or permanent housing. (Ord. 2002 c. 11)

10-9.3 Policy Statement.

It is the policy of the City of Boston to ensure that every program and/or initiative which targets or intends to target housing and was/is created, developed, implemented, administered, required, supervised, managed, and/or guided by the City of Boston shall, to the greatest extent allowable under law, include a preference for Boston residents. Since this policy instills only a preference for Boston residents, it does not, and it is not the intention of this policy to, exclude non-residents of the City of Boston from such programs and/or initiatives. This policy shall be construed broadly to effect the intended purpose of installing the aforementioned preference. (Ord. 2002 c. 11)

10-9.4 Annual Report.

In an effort to evaluate the effectiveness of the programs and/or initiatives that target or intend to target housing and that was/is created, developed, implemented, administered, required, supervised, managed, and/or guided by the City of Boston, the Department of Neighborhood Development and/or the Boston Redevelopment Authority or their equivalents shall annually prepare a report relevant to and regarding the City of Boston's housing programs. The annual report shall include (a) a list of all rental affordable housing units including the addresses thereof, (b) a list of all rental affordable housing units created in the calendar year and the addresses thereof, (c) a list of all rental affordable housing units lost or converted in the calendar year and the addresses thereof, (d) a list of all non-rental affordable housing

units including the addresses thereof, (e) a list of all non-rental affordable housing units created in the calendar year and the addresses thereof, and (f) a list of all non-rental affordable housing units lost or converted in the calendar year and the addresses thereof. This annual report shall be filed with the Boston City Clerk and with the Boston City Council no later than March 31 of each calendar year. (Ord. 2002 c. 11)

10-9.5 Implementation.

The provisions of 10-9 shall be effective immediately upon passage. (Ord. 2002 c. 11)

10-9.6 Severability.

If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect. (Ord. 2002 c. 11)

10-10 UNIVERSITY ACCOUNTABILITY.

10-10.1 Purpose.

Many students live within the campuses of their respective universities and colleges. These students receive the benefit of their school's security or campus police services in addition to the City of Boston's police services. Because the schools know where their on-campus students live, the schools are better positioned to provide the security and regulation enforcement services necessary to protect students and property in these on-campus regions.

Many other students, however, live outside the campuses of their respective universities and colleges. When schools do not know where their off-campus students live, it is more difficult to assess and satisfy off-campus security and regulatory enforcement needs. Therefore, it is essential for schools within the City of Boston to collect and maintain records of the locally residing off-campus student population to

better assist the City of Boston in its provision of security and regulatory enforcement services for residents of the City of Boston. (Ord. 2004 c. 11)

10-10.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in CBC 10-10.

a. *City* means the City of Boston.

b. *Directory* means the compilation of names, addresses, and telephone numbers gathered by a School in compliance with these sections.

c. *School* means any post-secondary educational institution that provides students with a degree or certification upon completion of a curriculum.

d. *Student* means any person who is enrolled in more than half the minimum credits necessary for full-time status, as defined by the college or university at which the Student is enrolled. (Ord. 2004 c. 11)

10-10.3 Collection of Records - Directory.

Each and every School within the City of Boston shall collect and maintain a Directory of the names, addresses, and telephone numbers of all Students enrolled at the School as well as a list of all properties currently rented by the School for use as student residences under a "Master Lease" program or otherwise. In addition to any other information collected by the School, the addresses and telephone numbers collected for the purposes of these sections must reflect where the Student actually resides and at what phone number the Student can be reached for the period in which the Student resides in the City of Boston.

Each and every School shall collect the required Directory information no less than twice each calendar year such that any School on a semester system shall collect and update the required Directory information no later than thirty (30) calendar days following the first day of each semester, and any

School on a quarterly system shall collect and update the required Directory information no later than thirty (30) calendar days following the first day of the first quarter of each academic year, and every alternating quarter of the academic year thereafter.

Upon collection, all information collected for the Directory shall be organized and maintained by the School in such a way that the required information is easily accessible and understandable to any authorized School official.

a. All schools shall be responsible for monitoring this Directory for compliance with the Boston Zoning Code's applicable use regulations with regards to the Code's definition of the term "family", which provides that a group of five (5) or more persons who are enrolled as full-time undergraduate students at a post secondary educational institution shall not constitute a family. Upon determining that any student's residence may be in violation of the Code, the school shall notify the student(s) of the Code regulation.

(Ord. 2004 c. 11; Ord. 2009 c. 8)

10-10.4 Report and Statistics Supplied to the City of Boston.

Each and every School shall supply a report with required statistics to the City of Boston. This report shall be based on the most current information in the Directory. The information in the report shall be compiled by the School within forty-five (45) calendar days of the beginning of each semester or quarter that information is gathered. The report required by this section shall include, but not be limited to, (a) the total number of Students enrolled at the School as of the date of collection of the Directory information, (b) the total number of Students enrolled at the School as of the date of collection of the Directory information that reside on the campus of the School, (c) the total number of Students enrolled at the School as of the date of collection of the Directory information that reside off the campus of the School, (d) a breakdown of the number of Students enrolled at the School as of the date of collection of the Directory information that reside off-campus aggregated by each zip code, (e) a complete list of the addresses of all properties currently owned, leased, rented, or operated by the School at which Students are housed, and (f) the number of possible violations discovered pursuant to 10-10.3(a), listed by zip code.

Each and every School shall forward, within forty-five (45) calendar days of the beginning of each semester or quarter that information is gathered, the report required by this section to the Clerk of the City of Boston, and the Clerk shall forward the report to the Mayor of the City of Boston and shall docket the report and include the docket on the agenda of the next-occurring meeting of the Boston City Council. The failure or refusal of a School to forward the report shall be deemed an event of non-compliance with the provisions of these sections.

(Ord. 2004 c. 11; Ord. 2009 c. 8)

10-10.5 Applicability.

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.

(Ord. 2004 c. 11)

10-10.6 Regulatory Authority.

The Clerk of the City of Boston shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

(Ord. 2004 c. 11)

10-10.7 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2004 c. 11)

10-10.8 Implementation.

The provisions of these sections shall be effective one hundred eighty (180) calendar days after passage.

(Ord. 2004 c. 11)

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CHAPTER XI

PUBLIC SERVICES

11-1 POLICE DEPARTMENT.

11-1.1 Weekly Report by Police Commissioner.

The Police Commissioner shall prepare and furnish, each week to the City Council, a report on the number of crimes reported in the City during the previous week in the following categories: shooting incidents and homicides involving minors, meaning anyone age seventeen (17) or under, as victims and/or perpetrators categorized by age, gender, race, ethnicity, and national origin, and specifying whether the minor involved was the victim and/or perpetrator, viz, murder, rape, assault, armed robbery, breaking and entering of homes, and purse-snatching, tabulated by police district and providing, in addition to the district number, the geographical area of the City comprising the district, and within each district tabulated according to the several tours of duty. However, the reporting of shooting incidents and homicides involving minors may be contingent on whether a formal arrest occurs. The Police Commissioner shall, in preparing each report, also include cumulative reported totals of the crimes enumerated above, tabulated as aforesaid, for the year to date of making the report.

The Police Commissioner shall also prepare and furnish each week to the Mayor and to the City Council a report on the deployment of sworn police officers to each district by shift. This report shall include the use of overtime, leave taken by officers, and officers assigned to each district but assigned out to other districts.

(Ord. 1973 c. 11; CBC 1975 Ord. T11 § 1; Ord. 1988 c. 14; Ord. 2009 c. 5)

Cross-reference:

Ord. ss 5-5.32; Ord. ss 17-4.5, ss 17-4.6

11-1.2 Shotguns in Police Vehicles; Training of Officers.

All Boston police vehicles shall be equipped with shotguns and shotgun racks. All Boston Police

Officers shall participate in a training course for the handling and operation of shotguns. All Boston Police Officers shall be awarded a certificate of training from the appropriate police officials at the completion of such training.

(Ord. 1974 c. 1; CBC 1975 Ord. T11 § 2)

Editor's Note:

This ordinance was declared invalid in O'Neil v. White, Suffolk Superior Court No. 683216 (1974).

11-1.3 Minimum Number of Marked Police Vehicles Required.

At all times in the various police districts of the City there shall be in use on duty no less than fifty (50%) percent plus one of all the marked police vehicles which were assigned to such districts on June 15, 1971.

(Ord. 1973 c. 14; CBC 1975 Ord. T11 § 3)

11-1.4 Police Vehicles to Be Manned Full-Time.

All Boston police vehicles, marked or unmarked, shall be manned twenty-four (24) hours a day by two (2) Boston Police Officers.

(Ord. 1973 c. 15; CBC 1975 Ord. T11 § 4)

11-1.5 Minimum Salaries for Patrolmen.

Effective as of January 1, 1972, the minimum annual compensation of patrolman members of the Police Department of the City, in the classifications and salary grades as herein set forth, shall be not less than the following:

For the first year of service, ten thousand five hundred (\$10,500.00) dollars.

For the second year of service, eleven thousand five hundred (\$11,500.00) dollars.

For the third and each succeeding year of service, twelve thousand five hundred (\$12,500.00) dollars.

"Service," under the provisions hereof, shall be deemed to commence with the date the appointee patrolman is first assigned to duty and continue until death, retirement, or termination of employment of the appointee. In determining years of service, credit shall be given for all time or period of service to December 31, 1971. All step increments in higher salary grade shall become due at intervals of a year's service at the beginning of the second and third years of service and shall commence on the Sunday preceding the day on which such step increments shall become due. (Ord. 1972 c. 7; CBC 1975 Ord. T11 § 5)

11-1.6 Minimum Number of Police Officers on the Boston Police Department.

On or before July 1, 1979, the size of the Boston Police Department shall be increased by the employment of a sufficient number of patrolmen so as to bring the force to strength of not less than two thousand three hundred (2,300) Police Officers. On or before July 1, 1980, the size of the Boston Police Department shall be increased by the employment of a sufficient number of patrolmen so as to bring the force to strength of not less than two thousand five hundred (2,500). Thereafter, additional officers shall be hired from time to time as needed so as to insure that the number of Police Officers on the force shall, at no time, be less than two thousand five hundred (2,500). (Ord. 1979 c. 2)

11-1.7 Crime Prevention Surveys.

a. *Procedure.* The Police Commissioner shall designate such personnel as he finds appropriate to undertake crime prevention surveys for elderly/handicapped multi-family housing developments and student housing, as provided for in Sections 9-11 and 9-12 of the City of Boston Code, as amended. Such personnel shall be certified as crime prevention officers by the Criminal Justice Training Council or any future body providing similar certification. Surveys for elderly/handicapped

developments shall be carried out on a phased basis parallel to that of the notices sent under subsection 9-11.2 by the Commissioner of the Inspectional Services Department; surveys for student housing shall be carried out upon receipt of a request from the landlord of student housing. Such surveys shall be completed within thirty (30) days of receipt of the landlord's request for a crime prevention survey.

Each crime prevention survey shall be on a form which is jointly developed by the Police Commissioner and the Commissioner of the Inspectional Services Department. Each completed survey shall include findings as to the security needs of the tenants/occupants of the housing and neighbors of such housing and recommendations as to how such needs shall be met through existing or new security measures, such as lighting, locks, safety officers, resident managers, security stations, security systems, or other equipment, personnel, or programs. Each survey shall also include a one-page summary, on official Police Department stationery, itemizing the elements recommended.

No fee shall be assessed to the landlord by the Police Commissioner for conducting the crime prevention survey, but such survey shall be carried out as public service to the residents of the City of Boston. Upon completion of each crime prevention survey, the Police Commissioner shall insure that a copy of the same is provided to the landlord and to the Commissioner of the Inspectional Services Department within thirty (30) days of receipt of the landlord's written request.

The Police Commissioner shall designate personnel to assist the Commissioner of the Inspectional Services Department in the assessment of the adequacy of security plans, as provided for in subsection 9-11.4 and 9-12.3 of the City of Boston Code, as amended.

b. *Non-liability of the City of Boston.* The provisions of this subsection shall not be construed to establish any duty on the part of the City of Boston greater than the City's general public duty to protect its citizens' health, safety, security, and well-being. No determination by the Commissioner of the Inspectional Services Department or the Boston Police Department as to the adequacy of a landlord's security measures shall be construed as a warranty or

guarantee of such security, and the sole responsibility for insuring that security measures are adequate to protect occupants and neighbors from foreseeable harm or risk shall rest and remain with the owner of such property.

c. *Severability*. The provisions of this subsection are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions which shall remain in full force and effect.

(Ord. 1989 c. 4 §§ 2-4; Ord. 1992 c. 1 § 2-4; Ord. 2010 c. 12)

11-1.8 Civilian Fingerprinting and Criminal History Records Checks for Certain Licenses.

a. Pursuant to the authority granted in the Massachusetts General Laws, Chapter 6, Section 172B½, the City of Boston Police Department shall establish, by rule or regulation, a civilian fingerprinting system for the purpose of conducting state and national criminal history records checks of persons applying for certain licensures within the City of Boston. Any person applying for a license for the following activities within the City of Boston is required to submit with the application a full set of fingerprints taken by the Boston Police Department within six months prior to the date of application:

1. Hawking and Peddling (CBC 16-2);
2. Operation of a Taxicab or other private vehicle for hire (CBC 16-15.5);
3. Operation of a Sight Seeing Vehicle (St. 1931, Chapter 399);
4. Operating as a Commercial Bicycle Messenger (St. 1998, Chapter 302);
5. Pawning (M.G.L. ch. 140, s. 70) or collecting of or dealing in and as a keeper of shop for the purchase, sale, or barter of junk, old metals, or second-hand articles (CBC 17-4.1); and
6. Appointment as Special Police Officer (St. 1898, Chapter 282).
7. Appointment as a City of Boston Constable (CBC 2-7.2).

b. The Boston Police Department will transmit the fingerprints to the State Police Identification Unit through the Criminal History Systems Board (CHSB), or its successor, for a state criminal records check and for a national criminal records check by the Federal Bureau of Investigation (FBI). The results of a criminal records check shall be communicated to the licensing authority for the sole purpose of evaluating the fitness of the person applying for the license.

c. The Boston Police Department shall render a fitness determination based upon the results of the records checks and communicate its fitness determination to the licensing authority. In rendering a fitness determination, the Police Department shall indicate whether the license applicant has been convicted of, or is under pending indictment for, a crime which bears upon his or her ability or fitness to serve in the capacity of the license and any felony or misdemeanor which involved force or threat of force, controlled substances, or was a sex-related offense.

d. A person applying for a license and who is required to submit a full set of fingerprints to the licensing authority, pursuant to paragraph (a) of this section, may request and receive a copy of his criminal history records from the Boston Police Department. Should the license applicant seek to amend or correct his record, he must contact the CHSB, or its successor, for a state record or the FBI for records from other jurisdictions maintained in its file.

e. The fee charged to the applicant by the Boston Police Department for the purpose of enforcing this section shall be fifty (\$50.00) dollars for each application. A portion of the fee, as specified in M.G.L. ch. 6, § 172B½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Boston Police Department for costs associated with the administration of the fingerprinting system. (Ord. 2011 c. 2)

11-2 SECURITY ALARM SYSTEMS.

Editor's Note:

Prior ordinances codified herein include portions of Ordinance No. 1982 c. 11.

11-2.1 Definitions.

When used in this section, unless contrary intention clearly appears, the following words and phrases shall have the following meanings:

Central station operating company shall mean a company equipped to receive a security alarm signal from each of its customers and which then transmits to the Boston Police Department (BPD) the location of any such alarm the central station operating company receives.

Commissioner shall mean the Commissioner of the Boston Police Department or his designee.

False alarm shall mean the transmittal of a signal to the Boston Police Department, whether because of human or mechanical error, and whether through a central station operating company or directly, even though there is no person entering or attempting to enter, without authorization, in or on real property protected by a security alarm system.

Security alarm system shall mean an electronic or mechanical device used to warn of a person entering or attempting to enter, without authorization, in or on real property.

Security alarm user shall mean a person, company, corporation or other entity utilizing a security alarm system to protect his or its real property located in the City of Boston.
(Ord. 1992 c. 11 § 1)

11-2.2 Alarm Information List.

The Commissioner shall create and maintain a list known as the Alarm Information List. Each central station operating company shall, as set forth herein, provide the information for said list to the Commissioner as to all of its customers who have a security alarm system. A security alarm user, if his or its security alarm system is not connected to a central station operating company, shall provide the information for said list to the Commissioner as to said user.

a. The Alarm Information List shall consist of the following information from a central station operating company:

1. The name, address and telephone numbers of the central station operating company;

2. The location of the premises where each such customer's security alarm system is located;

3. The name, address, and home and work telephone numbers of each such customer;

4. The names, addresses, and home and work telephone numbers of at least two (2) persons who can be contacted twenty-four (24) hours a day who are authorized by the central station operating company or the customer to respond to a security alarm signal and who have access to the premises from where the security alarm signal is emitting; and

5. Such other information as the Commissioner may require.

b. The Alarm Information List shall consist of the following information as to a security alarm user whose security alarm system is not connected to a central station operating company:

1. The location of the premises where the security alarm system is located;

2. The name, address, and home and work telephone numbers of the security alarm user;

3. The names, addresses, and home and work telephone numbers of at least two (2) persons who can be contacted twenty-four (24) hours a day who are authorized by the security alarm user to respond to a security alarm signal and who have access to the premises from where the security alarm signal is emitting; and

4. Such other information as the Commissioner may require.

The Commissioner may at any time send a notice of the requirements of this section to a central station operating company or to a security alarm user. A central station operating company shall comply with the requirements of this subsection within sixty (60) days after the Commissioner has sent it such notice. Similarly, a security alarm user whose security alarm system is not connected to a central station operating company shall comply with the requirements of this

subsection within sixty (60) days after the Commissioner has sent him or it such notice. If such a central station operating company or security alarm user fails to comply with this subsection, the Commissioner may assess a fine of fifty (\$50.00) dollars for each day of noncompliance.
(Ord. 1992 c. 11 § 1)

11-2.3 Updating Information.

Every central station operating company and every security alarm user whose security alarm system is not connected to a central station operating company shall be responsible for updating the information herein required to be provided to the Commissioner. If the information provided changes, said central station operating company or security alarm user shall provide the Commissioner with the updated information. If such a central station operating company or security alarm user fails to comply with this subsection, the Commissioner may assess a fine of fifty (\$50.00) dollars.
(Ord. 1992 c. 11 § 1)

11-2.4 False Alarm Assessment Schedule.

Any security alarm user whose security alarm system transmits to the Boston Police Department more than two (2) false alarms in a calendar year, whether through a central station operating company or directly, shall be assessed a fine pursuant to G.L. Chapter 40, Section 21 for the third and any subsequent false alarm according to the following schedule:

- a. Third false alarm: \$ 50.00
- b. Fourth false alarm: \$100.00
- c. Fifth false alarm: \$200.00

For the sixth and any subsequent false alarm, the fine shall be two hundred (\$200.00) dollars per violation, each day after any such false alarm to be considered a new violation. A security alarm user shall be assessed said two hundred (\$200.00) dollars per day until he can demonstrate to the Commissioner that the causes of the false alarms have been remedied.
(Ord. 1992 c. 11 § 1)

11-2.5 Municipal Charges Lien.

If a fine assessed for a false alarm pursuant to subsection 11-2.4 hereof has not been paid by the due date, the Commissioner shall impose a lien on the real property where such false alarm occurred pursuant to the provisions of G.L. Chapter 40, Section 58 and shall notify the security alarm user in writing of such lien. The provisions of this subsection shall apply to fines that remain unpaid or that become due and payable on or after the effective date of this section.
(Ord. 1992 c. 11 § 1)

11-2.6 Restrictions on Tape Dialers and Automatic Telephone Devices.

Ninety (90) days after the passage of this section, no security alarm system shall be equipped with a tape dialer or similar automatic telephone device which will transmit an alarm signal to the 911 emergency system or any telephone lines of the Boston Police Department. If a security alarm user fails to comply with this subsection, the Commissioner may assess a fine of fifty (\$50.00) dollars.
(Ord. 1992 c. 11 § 1)

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11-2.7 Testing Equipment.

All security alarm users must notify the Commissioner in advance of any testing of equipment. Failure to notify the Commissioner in advance of a testing of equipment shall constitute a false alarm and be subject to the assessment schedule contained herein in subsection 11-2.5.

(Ord. 1992 c. 11 § 1)

11-2.8 Audible Bell or Horn.

All security alarm systems which use an audible bell or horn shall be equipped with an automatic shut-off device which will deactivate the security alarm system within ten (10) minutes of its sounding. All security alarm users with an audible bell or horn shall install and maintain such automatic shut-off device within ninety (90) days of the effective date of this section if not already so equipped.

(Ord. 1992 c. 11 § 1)

11-2.9 Appeal Procedures.

Every central station operating company or security alarm user who is aggrieved by an action taken by the Commissioner under this section may file an appeal to a panel composed of the Commissioner, the Boston Public Works Commissioner, and the Boston Transportation Commissioner, or their designees. Such appeal must be in writing and must be received by the Commissioner within ten (10) days after the aggrieved person has been sent notice of such action. After notice to such owner, the panel shall hold a hearing, after which it shall issue a decision in which it affirms, annuls or modifies the action taken by the Commissioner, giving its reasons therefor. The Commissioner shall send his decision to the aggrieved person within ten (10) days after the hearing. The decision of the panel shall be a final administrative decision. The aggrieved person shall have thirty (30) days from the date of the written decision to seek judicial review in a court of competent jurisdiction.

(Ord. 1992 c. 11 § 1)

11-2.10 Regulations and Enforcement.

The Commissioner may promulgate such regulations as may be necessary to implement this section.

(Ord. 1992 c. 11 § 1)

11-2.11 Deposit in the General Fund.

All fines assessed herein shall be payable to the City of Boston for deposit in the General Fund.

(Ord. 1992 c. 11 § 1)

11-2.12 Severability.

The provisions of this section shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (Ord. 1992 c. 11 § 1)

11-3 NEIGHBORHOOD AND HUMAN SERVICES DEPARTMENT.**11-3.1 Department, Commissioner, Term.**

There shall be in the City a Department known as the Neighborhood and Human Services Department (hereinafter called the Department) which shall be under the charge of an Officer known as the Commissioner of Neighborhood and Human Services (hereafter called the Commissioner) who shall be appointed by the Mayor for a term expiring on the first Monday of the January following the next biennial election at which a Mayor is elected.

(Ord. 1979 c. 22; Ord. 1980 c. 6)

11-3.2 Duties of Commissioner.

The Commissioner shall have direct responsibility for the organization, administration, and operation of the Department, and the agencies included within the Department, and shall receive such salary as may be fixed from time to time by ordinance. The Commissioner may, in accordance with applicable law, and within the limits of the funds appropriated therefor, appoint and remove such subordinates as the work of the Department may require and may make such expenditure, within the limits of the funds appropriated therefor, as may be necessary to execute effectively the purposes of the Department and the agencies included within the Department.

(Ord. 1979 c. 22; Ord. 1980 c. 6)

11-3.3 Purpose of the Department.

It shall be the purpose of the Department to administer the agencies included within it and to conduct continuing observation, study, an evaluation of such agencies with a view to making specific annual recommendations to the Mayor and City Council as to whether such agencies are meeting the needs of the people within the City neighborhoods, and as to any changes in the number of organizations of such agencies so as to better serve the people of such neighborhoods.

(Ord. 1979 c. 22; Ord. 1980 c. 6)

11-3.4 Agencies Within the Department.

Any agency, purporting to exist as a City agency on July 1, 1978, which was funded by a Council appropriation order as a City agency separate and apart from the Mayor's Office, even though such agency might bear the words "Mayor's Office of" in its title, except the Office of Fiscal Affairs, which is hereby created and placed within and made a part of the Administrative Services Department, and the Office of Property Equalization, which is hereby created and placed in and made a part of the Assessing Department, and except the so called "Mayor's Office of Communications," which is hereby abolished, which is funded to an extent of less than fifty (50%) percent of funds received by the City from the United States of America, which was not created by law or ordinance, and which continues to exist on the date on which this ordinance is in force, is hereby created and shall be on the date on which this ordinance is in force, is hereby created and shall be in and subject to the administrative control of the Department. All such agencies in the future shall not bear the words "Mayor's Office of" in their title.

(Ord. 1979 c. 22; Ord. 1980 c. 6)

11-3.5 Agencies Not Created by Law or Ordinance Abolished.

Any agency, purporting to be an agency of the City, which was not expressly created by law or ordinance, and which is not in this Department or in the Department of Federally Funded Agencies (as created by CBC 1975 Ord. 5 § 2), when this ordinance is in force, shall be and hereby is abolished.

(Ord. 1979 c. 22; Ord. 1980 c. 6)

11-3.6 Annual Report.

On or before October 1, 1980, and on or before October 1 of each succeeding year, the Department shall report in writing to the Mayor and City Council. Such reports shall include, but not be limited to, a report on all agencies within the Department, setting forth, in narrative style, their activities for the previous fiscal year, the goals for the succeeding year, which of its goals, as contained in its previous annual report were achieved, and which were not, and the reasons for any failures. The report shall also contain the number of employees, their salaries, job title, and names, as well as any other information that might be of relevance in judging the costs and benefits of the Department to the taxpayer.

(Ord. 1979 c. 22; Ord. 1980 c. 6)

11-3.7 Subordinate Positions.

If for any reason any appointment to a position with the Department, excepting that of Commissioner, is not made in accordance with the provisions of Chapter 31 of the General Laws, it shall be the responsibility of the Department to forthwith establish and promulgate, subject to approval of the City Council, rules and regulations which shall:

a. Insure that for all appointments to positions within the Department made after June 30, 1978, every responsible effort shall be made to guarantee any resident of the City, who is qualified for any such position, timely notice that such position is available, reasonable opportunity to apply for such position and equal opportunity with all qualified applicants for appointment. All positions established and all appointments to positions in agencies within the Department, excepting that of Commissioner, made after June 30, 1978, are hereby abolished and cancelled as of July 1, 1979, and if reestablished and new appointments made, such appointments shall be made in accordance with this section.

b. Insure that all employees have equal opportunity for promotion, pay increases or other job related benefits based on their work performance as such employees.

c. Insure that any employee is protected in his or her employment against any inequitable threat of

demotion, loss of pay, job termination, or other unfair labor or discriminatory practice.

d. Insure that any employee is given an opportunity to join a collective bargaining unit, if he or she so chooses, without interference from any official or employee of the City.

In addition, it shall also be the responsibility of the Department to forthwith establish and promulgate, subject to approval of the City Council, job descriptions for all positions within Department which are not filled in accordance with the provisions of Chapter 31 of the General Laws.
(Ord. 1979 c. 22; Ord. 1980 c. 6)

11-3.8 Creating the Office of Public Service.

a. *Creation of Department of Social Services.* There is hereby created within the Department of Neighborhood Services (hereinafter "NHS") an office to be known as the Office of Public Service (hereinafter "OPS") which shall be under the charge of an officer, known as the Director, appointed by the Commissioner of NHS who shall have the powers and perform the duties imposed upon him by law, and who shall receive an annual salary not to exceed twenty-nine thousand (\$29,000.00) dollars.

b. *Duties of Director.* The Director may, subject to appropriations, from time to time, establish within the office such divisions as may be necessary for the efficient and economical administration of the office, and when necessary for such purpose, he may abolish any such division, or he may merge any two (2) or more of them, and may abolish or merge any such other administrative units within divisions as he may deem advisable. The Director shall prepare and keep current a statement of the organization of the office, of the assignment of functions to its various administrative units, and employees, and of the places at which and the methods whereby the public may receive information or make requests.

c. *Duties and Responsibilities of the Office of Public Services.* The Office of Public Service shall:

1. Formulate, coordinate and implement municipal policies with respect to neighborhood service delivery;

2. Respond at the local level to complaints about the provisions of services;

3. Improve the delivery of services through close cooperation with line department personnel and through recommendations for departmental change;

4. Act as the advocate for increased citizen involvement in the affairs of the municipal government; and

5. Provide needed direct services and information to the public in the most convenient and accessible manner possible.
(Ord. 1980 c. 9)

11-4 FIRE DEPARTMENT.

11-4.1 Fire Commissioner; Appointments.

The Fire Department shall be under the charge of the Fire Commissioner, who shall exercise the powers and perform the duties provided by statute; and shall appoint a Chief of Department, Assistant Chiefs, Deputy Chiefs, District Chiefs, and other officers and firefighters.

(St. 1895 c. 449 §§ 9-11; St. 1914 c. 795; Ord. 1946 c. 1; Rev. Ord. 1961 c. 14 § 1; CBC 1975 Ord. T11 § 75)

11-4.2 Emergency Authority.

In case of a conflagration or extreme emergency involving a fire hazard, the Officer or Board having charge of the fire fighting force shall have full authority to summon and keep on duty any or all of the members of the fire fighting force while such conflagration or emergency continues.

(Rev. Ord. 1961 c. 14 § 2; CBC 1975 Ord. T11 § 76)

11-4.3 Assistance to Other Cities and Towns.

The Commissioner may furnish, on such occasions and under such conditions as he may determine, the assistance of the Department to another City, Town, or Fire District, in extinguishing fire therein, or rendering any other emergency aid or performing any detail. Agreements to provide such

assistance shall be reduced to writing and executed by the Commissioner on behalf of the City in form approved by the Corporation Counsel. Copies of such agreements shall be filed with the City Clerk and City Council.

(Rev. Ord. 1961 c. 14 § 3; CBC 1975 Ord. T11 § 77; Ord. 1981 cs. 3, 18, 32; Ord. 1982 cs. 20, 36; Ord. 1983 c. 14)

11-4.4 Duties of Superintendent of Fire Alarm.

The Commissioner shall appoint a Superintendent of Fire Alarm, who shall, under the direction of the Commissioner, have the entire care and maintenance of the wires, posts, machinery, and appliances of the fire alarm telegraph and telephone system; shall see that all such wires, posts, machinery, and appliances are maintained in good order and condition; and shall keep in his office a map showing the locations of the same.

(Rev. Ord., 1961 c. 14 § 4; CBC 1975 Ord. T11 § 78)

11-4.5 Monthly Report on Fires.

The Commissioner shall make to the Mayor a monthly report of the location and number of fires that have occurred in the preceding month, the cause of the same and the amount of property destroyed thereby, and shall, in his annual report, include a brief summary of such matters.

(Rev. Ord. 1961 c. 14 § 5; CBC 1975 Ord. T11 § 79)

Cross-reference:

Ord. ss 5-5.32

11-4.6 Notice for Hearing on Charges.

The Commissioner shall, before calling before him a member of the Department for a hearing on charges, give such member at least twenty-four (24) hours' notice of the charges made, and shall allow him to be represented at the hearing by Counsel.

(Rev. Ord. 1961 c. 14 § 6; CBC 1975 Ord. T11 § 80)

11-4.7 Minimum Salaries.

Effective as of January 1, 1972, the minimum annual compensation of firefighter members of the Fire Department of the City, in the classification and

salary grades as herein set forth, shall be not less than the following:

For the first year of service, ten thousand five hundred (\$10,500.00) dollars;

For the second year of service, eleven thousand five hundred (\$11,500.00) dollars;

For the third and each succeeding year of service, twelve thousand five hundred (\$12,500.00) dollars.

"Service," under the provisions hereof shall be deemed to commence with the date the appointee firefighter is first assigned to duty and continue until death, retirement, or termination of employment of the appointee. In determining years of service, credit shall be given for all time or period of service prior to December 31, 1971. All step increments in higher salary grade shall become due at intervals of a year's service at the beginning of the second and third years of service and shall commence on the Sunday preceding the day on which such step increments shall become due.

(Ord. 1972 c. 6; CBC 1975 Ord. T11 § 81)

11-4.8 NOTICE TO FIRE DEPARTMENT REGARDING DISCONTINUANCE OF ELECTRICAL SERVICE TO RESIDENTIAL PROPERTIES.

(a) Termination of Electrical Service. All utility companies providing electrical service to residential properties within the City of Boston must provide notification, in writing by email, to the Boston Fire Commissioner, or his designee, no later than the close of business on the date of termination of electric service supplying a public service meter in a multi-family residential property. Utility companies shall only provide the address of the particular residential property.

(b) Resumption of Electrical Service. All utility companies continuing electrical service after a previous discontinuance of service must provide notification, in writing by email, to the Boston Fire Department Commissioner, or his designee, no more than forty-eight (48) hours after electric service has resumed at a public service meter in a multi-family residential property.

(c) Advisory Guidelines upon Termination of Electrical Service. In addition to the notification requirements imposed on all utility companies pursuant to Title 220, Chapter 25.00 of the Code of Massachusetts Regulations, all utility companies must provide a termination of electrical service advisory guideline as approved by the Commissioner of the Boston Fire Department, to all residential properties upon termination of electrical service.

(d) Penalties. Willful violation of this ordinance by any utility company providing electrical service to a residential property within the City of Boston, shall result in a fine of one hundred (\$100.00) dollars for the first violation; two hundred (\$200.00) dollars for the second violation; and three hundred (\$300.00) dollars for every subsequent violation.

Nothing in this ordinance shall limit Massachusetts General Laws, Chapter 164 § 124 or the Department of Public Utilities regulations.
(Ord. 2011 c. 14)

11-5 FIRE PREVENTION CODE.

11-5.1 Adoption By Reference.

The Boston Fire Prevention Code of 1979 was adopted by Ord. 1979 Chapter 28 on July 18, 1979. (Ord. 1979 c 28; Ord. 1990 c. 5, Ch. 6 § 1; Ord. 1999 c. 7)

Editor's Note:

Boston Fire Prevention Code of 1979 was printed as a separate document. A copy of the Boston Fire Prevention Code of 1979 is available in the Office of the City Clerk or Fire Department for use by the public. This ordinance is included by reference without the full text of the Code included herein.

11-5.2 Blasting.

a. *Purpose.* All blasting within the Corporate Limits of the City of Boston shall comply with the requirements of 527 CMR, Board of Fire Prevention, Chapter 13.00, Explosives and Application Sections of the Massachusetts General Laws, Chapter 148. In

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addition, blasting shall comply with, the following general and specific requirements and standards for the protection of people and property, land, and other natural resources. Unless otherwise provided for in this regulation, the provisions of 527 CMR 13.00 are applicable and must be complied with at all times.

b. *Definitions.* If any of the following definitions are inconsistent with definitions that appear in 527 CMR 13.00, the definition in 527 CMR 13.00 is the definition that governs.

Airblast. The airborne shock wave or acoustic transient generated by an explosion.

Always And Never. List of precautions (IME Safety Library Publication No. 4) printed by the Institute of Makers of Explosives pertaining to the transportation, storage, handling and use of explosive materials. Formerly titled *Do's And Don'ts*.

American National Standards Institute (ANSI). A non-governmental organization concerned with developing safety and health standards for industry.

American Table of Distances. A quantity-distance table, prepared and approved by IME, for storage of explosive materials to determine safe distances from inhabited buildings, public highways, passenger railways, and other stored explosive materials.

Ammonium Nitrate. The ammonium salt of nitric acid represented by the formula NH_4NO_3 .

Ampere. A unit of electrical current produced by 1 volt acting through a resistance of 1 ohm.

ANFO. A blasting agent (1.5D) containing no essential ingredients other than prilled ammonium nitrate and fuel oil.

ANSI. See *American National Standards Institute*.

Appropriate Authority. See *Competent Authority*.

Approved, Approval, or Authorized. Terms which mean *Approved*, *Approval*, or by the authority having jurisdiction.

Artificial Barricade. An artificial mound or revetted wall of earth of a minimum thickness of three feet.

ATF. See *Bureau of Alcohol, Tobacco, And Firearms*.

Authorized Person. An individual approved or assigned by management to perform a specific duty or duties or to be at a specific location or locations.

Authority Having Jurisdiction. The governmental agency, office, or individual responsible for approving equipment, an installation, or a procedure.

Available Energy. The energy from an explosive material that is capable of performing useful work.

Backbreak. Rock broken beyond the limits of the last row of holes in a blast, synonymous with *Overbreak*.

Barricaded. The effective screening of a building containing explosive materials from a magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosive materials to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier.

Barrier. A material object or objects that separates, keeps apart, or demarcates in a conspicuous manner such as cones, a warning sign, or tape.

Base Charge. The main explosive charge in the base of a detonator.

Binary Explosive. See *Phosphoric Materials*.

BATF. See *Bureau of Alcohol, Tobacco, And Firearms*.

Bench. A horizontal ledge from which holes are drilled vertically down into the material to be blasted; benching is a process of excavating where a highwall is worked in steps or lifts.

Bench Height. The vertical distance from the top of a bench to the floor or to the top of the next lower bench.

Black Powder. A deflagrating or low explosive compound of an intimate mixture of sulfur, charcoal, and an alkali nitrate, usually potassium or sodium nitrate.

Blast, (Blasting). The firing of explosive materials for such purposes as breaking rock or other material, moving material, or generating seismic waves.

Blast Area. The area including the blast site and the immediate adjacent area within the influence of flying rock missiles, gases, and concussion. (**)

Blasthole. See *Drill Hole* and *Borehole*.

Blast Pattern. The plan of the drill holes as laid out for blasting; an expression of the burden distance and the spacing distance and their relationship to each other. Synonymous with *Drill Pattern*.

Blast Site. The area in which explosive materials are being or have been loaded and which includes all holes loaded or to be loaded for the same blast and for a distance of 50 feet in all directions. (**)

Blaster. A person who holds a valid Certificate of Competency issued by the State Fire Marshal and qualified to be in charge of and responsible for the design, loading, and firing of a blast. A blaster is recognized in his field as an explosives craftsman. (**)

Blasting Accessories. Non-explosive devices and materials used in blasting, such as, but not limited to, cap crimpers, tamping bags, blasting machines, blasting galvanometers, and cartridge punches.

Blasting Agent. An explosive material which meets prescribed criteria for insensitivity to initiation.

For storage, Title 27, Code of Federal Regulations, Section 5511 defines a blasting agent as any material or mixture, consisting of fuel and oxidizer intended for blasting, not otherwise defined as an explosive; provided, that the finished product, as mixed for use or

shipment, cannot be detonated by means of a No. 8 test blasting cap (detonator) when unconfined (Bureau of Alcohol, Tobacco and Firearms Regulation).

For transportation, Title 49 CFR, Section II 73.50, defines Class 1, Division 1. 5 (blasting agent) as a substance which has mass explosion hazard but is so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions in transport.

Blasting Cap. See *Detonator*.

Blasting Crew. A group of persons who assist the blaster in loading, tying in, and firing a blast.

Blasting Galvanometer. An electrical resistance instrument designed specifically for testing electric detonators and circuits containing them. It is used to check electrical continuity. Other acceptable instruments for this purpose are Blasting Ohmmeters and Blasters' Multi-meters.

Blasting Log. A written record of information about a specific blast as may be required by law or regulation.

Blasting Machine. An electrical or electromechanical device which provides electrical energy for the purpose of energizing detonators in an electric blasting circuit. Also used in reference to certain non-electric systems (Sometimes called exploder or battery).

Blasting Mat. A mat of woven steel wire, rope, scrap tires, or other suitable material or construction to cover blastholes for the purpose of preventing flying rock missiles.

Blasting Vibrations. The energy from a blast that manifests itself in vibrations which are transmitted through the earth away from the immediate blast area.

Booster. An explosive charge, usually of high detonation velocity and detonation pressure, designed to be used in the explosive initiation sequence between an initiator or primer and the main charge.

Borehole. A hole drilled in the material to be blasted, for the purpose of containing an explosive charge, also called *Blasthole* or *Drill Hole*.

Breakage. A term used to describe the site distribution of the rock fragments created by a blast.

Bridgewire. A resistance wire connecting the ends of the leg wires inside an electric detonator and which is embedded in the ignition charge of the detonator.

Bulk Strength. The strength per unit volume of an explosive calculated from its weight strength and density.

Burden. The distance from the borehole and the nearest free face or the distance between boreholes measured perpendicular to the spacing. Also the total amount of material to be blasted by a given hole, usually measured in cubic yards or tons.

Bureau of Alcohol, Tobacco, and Firearms. A bureau of the Department of Treasury having responsibility for the promulgation and enforcement of regulations related to the unlawful use of explosive materials under 18 USC Chapter 40, (BATF) Section 847.

Bureau of Mines. See *U.S. Bureau of Mines*.

Cap-Sensitive Explosive Material. An explosive material which will detonate with an *IME No. 8 Test Detonator* when the material is unconfined.

Capacitor Discharge Blasting Machine. A blasting machine in which electrical energy, stored on a capacitor, is discharged into a blasting circuit containing electric detonators.

Cartridge. An individual closed shell, bag, or tube of circular cross section containing explosive material.

Cartridge Count (Stick Count). The number of cartridges in a case. A standard case typically contains about 50 pounds of explosive material. Unless otherwise specified it refers to the number of 1 1/4 x 8 inch cartridges in a 50 lb. case.

Cartridge Strength. Synonymous with *Bulk Strength*.

CFR. See *Code of Federal Regulations*.

Circuit. A completed path for conveying electrical current. See *Series Blasting*.

Circuit, Parallel Blasting Circuit, and Series-in-parallel Blasting Circuit. (Some non-electric systems also use the word circuit.)

Class A Explosives. A term formerly used by the U.S. Department of Transportation to describe explosives which possess detonating or otherwise maximum hazard. (Currently classified as Division 1.1 or 1.2 materials).

Class B Explosives. A term formerly used by the U.S. Department of Transportation to describe explosives which possess flammable hazard. (Currently classified as Division 1.3 materials.)

Class C Explosives. A term formerly used by the U.S. Department of Transportation to describe explosives which contain Class A or Class B explosives, or both as components but in restricted quantities. (Currently classified Division 1.4 materials.)

Code of Federal Regulations. A codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation.

Collar. The mouth or opening of a borehole or shaft.

Column Charge. A charge of explosives in a blasthole in the form of a long continuous unbroken column.

Column Depth/Column Height. The length of each portion of a blasthole filled with explosive materials.

Competent Authority. A national agency responsible under its national law for the control or regulation of a particular aspect of the transportation of hazardous materials. Also referred to as Appropriate Authority (Ref. 49 CFR).

Confined Detonation Velocity. The detonation velocity of an explosive material in a substantial container or a borehole.

Connecting Wire. Wire used to extend the firing line or leg wires in an electric blasting circuit.

Continuity Check (Circuit Continuity Check). A determination made by instrumentation where possible, and visually in all cases, to show that an initiation system is continuous and contains no breaks or improper connections that could cause stoppage or failure of the initiation process.

Coupling. The degree to which an explosive fills the cross-section of a borehole: bulk loaded explosives are completely coupled; untamped cartridges are decoupled.

Critical Diameter. The minimum diameter for propagation of a detonation wave at a stable velocity. Critical diameter is affected by conditions of confinement, temperature and pressure on the explosive.

Current Leakage. Portion of the firing current bypassing part of the blasting circuit through unintended paths.

Current Limiting Device. An electric or electromechanical device that limits (1) current amplitude; (2) duration of current flow; or (3) total energy of the current delivered to an electric blasting circuit.

Cushion Blasting. A blasting technique used to produce competent slopes or smooth walls. The cushion holes, fired after the main charge, have a reduced spacing and employ decoupled charges.

Cutoff. A break in a path of detonation or initiation caused by extraneous interference, such as flyrock or shifting ground.

Date-Shot Code. A code, required by Federal regulation (BATF), applied by manufacturers to the outside shipping containers, and, in many instances, to the immediate containers of explosive materials to aid in their identification and tracing.

Dautriche Method-Detonation Velocity. A method of determining the detonation velocity of an explosive material by employing detonating cord and a witness plate.

DC. Direct current.

Decibel. A unit of air overpressure commonly used to measure airblast.

Deck Loading (Decking). A method of loading blastholes in which the explosive charges called decks or deck charges, in the same hole are separated by stemming or an air cushion.

Deck. An explosive charge that is separated from other charges in the blasthole by stemming or an air cushion.

Decoupling. The use of cartridged explosive products significantly smaller in diameter than the diameter of the blasthole. Decoupling or the use of decoupling charges is designed to reduce the charge concentration in the blasthole and minimize stresses exerted on the walls of the blasthole.

Deflagration. An explosive reaction such as a rapid combustion that moves through an explosive material at a velocity less than the speed of sound in the material.

Delay. A distinct pause of predetermined time between detonation or initiation impulses, to permit the firing of explosive charges separately.

Delay Blasting. The practice of initiating individual explosive decks, boreholes or rows of boreholes at predetermined time intervals using delay detonators, or other delaying means, as compared to instantaneous blasting where all holes are fired essentially at the same time.

Delay Detonator. An electric or non-electric detonator used to introduce a predetermined lapse of time between the application of a firing signal and the detonation of the base charge.

Delay Element. The device in a delay detonator that produces the predetermined time lapse between the application of a firing signal and detonation.

Delay Interval. The nominal time between the detonation of delay detonators of adjacent periods in a delay series; the nominal time between successive detonations in a blast.

Delay Period. A designation given to a delay detonator to show its relative or absolute delay time in a given series.

Delay Series. A series of delay detonators designed to satisfy specific blasting requirements. There are basically two types of delay series: millisecond (MS) or short period (SP) with delay intervals on the order of milliseconds and long period (LP) with delay time on the order of seconds.

Delay Tag. A tag, band, or marker on a delay detonator that denotes the delay series, delay period and/or delay time of the detonator.

Delay Time. The lapse of time between the application of a firing signal and the detonation of the base charge of a delay detonator.

Density. The mass of an explosive per unit of volume, usually expressed in grams per cubic centimeter or pounds per cubic foot (also see *Specific Gravity*).

Department of Transportation (DOT). A cabinet level agency of the Federal Government. It has the responsibility for the comprehensive regulation of transportation safety and issues regulations governing interstate shipments of explosives and other hazardous materials.

Detonating Cord. A flexible cord containing a center core of high explosive which may be used to initiate other high explosives.

Detonating Cord Downline. The section of detonating cord that extends within the blasthole from the ground surface down to the explosive charge.

Detonating Cord MS Connectors. Nonelectric short-interval (millisecond) delay devices for use in delaying blasts which are initiated by detonating cord.

Detonating Cord Trunkline. The line of detonating cord that is used to connect and initiate other lines of detonating cord.

Detonation. An explosive reaction that moves through an explosive material at a velocity greater than the speed of sound in the material.

Detonation Pressure. The pressure produced in the reaction zone of a detonating explosive.

Detonation Velocity. The velocity at which a detonation progresses through an explosive.

Detonator. Any device containing an initiating or primary explosive that is used for initiating detonation in another explosive material. A detonator may not contain more than ten (10) grams of total explosives by weight, excluding ignition or delay charges. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuse, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires. Unless specifically classified otherwise, detonators are classified 1.1 (Class A explosives). Also see *Detonators 1.4 (Class C Explosives)*.

Detonators 1.4 (Class C Explosives). Initiating devices which will not mass explode when packaged for shipment. (See *Mass Explode*)

Diameter. The cross-sectional width of a borehole or an explosive cartridge.

Ditch Blasting. The formation of a ditch by the detonation of a series of explosive charges.

Ditching Dynamite. A nitroglycerin type explosive especially designed to propagate sympathetically from hole to hole in ditch blasting.

Do's And Dont's. Former name of a list of precautions (IME Safety Library Publication No. 4) printed by the Institute of Makers of Explosives pertaining to the transportation, storage, handling, and use of explosive materials and included in cases of explosive materials. Recently renamed, *Always And Never*.

DOT. See *Department of Transportation*.

Downline. A line of detonating cord or plastic tubing in a blasthole which transmits the detonation

from the trunkline or surface delay system down the hole to the primer.

Drill Hole. A hole drilled in the material to be blasted for the purpose of containing an explosive charge, also called *Blasthole* or *Borehole*.

Drilling Pattern. The location of blastholes in relationship to each other and the free face.

Dynamite. A high explosive used for blasting, consisting essentially of a mixture of, but not limited to nitroglycerin, nitrocellulose, ammonium nitrate, sodium nitrate, and carbonaceous materials.

Electric Blasting Circuit. An electric circuit containing electric detonators and associated wiring. Also see *Parallel*, *Series*, and *Series-In-Parallel Blasting Circuits*.

Electric Detonator. A detonator designed for, and capable of, initiation by means of an electric current.

Electrical Storm. An atmospheric disturbance characterized by intense electrical activity producing lightning strokes and strong electric and magnetic fields. Synonymous with *Thunderstorm* and *Lightning Storm*.

Emergency Procedure Card. Instructions carried on a vehicle transporting explosive materials and giving specific procedures in case of emergency.

Emulsion. An explosive material containing substantial amounts of oxidizer dissolved in water droplets, surrounded by an immiscible fuel, or droplets of an immiscible fuel surrounded by water containing substantial amounts of oxidizer.

Energy. A measure of the potential for an explosive to do work.

Explode. To react chemically in a rapid manner to produce heat and pressure. The term encompasses both deflagration and detonation.

Explosion. A chemical reaction involving an extremely rapid expansion of gas usually associated with the liberation of heat.

Explosive. Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat. In 527 CMR 13.00, explosives shall be a Class I Explosives Materials. Class I Explosives Materials shall be divided into six divisions, the divisions being characteristic of the properties and hazards of the particular explosives materials. The Divisions of Class I Explosives Materials shall be:

Division 1.1: explosives that have a mass explosion hazard. (formerly Class A explosives).

Division 1.2: explosives that have a projection hazard but not a mass explosion hazard. A high explosive. (formerly Class A or Class B explosives).

Division 1.3: explosives that have a fire hazard and either a minor blast hazard or a minor projection hazard, or both, but not a mass explosion hazard. A low explosive. (formerly Class B explosives).

Division 1.4: explosives that present a minor explosion hazard. An external fire must not cause virtual instantaneous explosion of almost the entire contents of the package. No device may contain more than 25 g (0.9 oz) of a detonating material. A low explosive. (formerly a Class C explosive).

Division 1.5: very insensitive explosive materials that have a mass explosion hazard but are so insensitive that there is little or no probability of initiation or of transition from burning to detonation under normal conditions of transport. (formerly a blasting agent).

Division 1.6: extremely insensitive articles that do not have a mass explosion hazard, and articles that demonstrate a negligible probability of accidental initiation or propagation. (no applicable hazard class). (**)

Explosive-Actuated Device. Any tool or special mechanized device which is actuated by explosives. The term does not include propellant-actuated devices. (Also see *Propellant-Actuated Power Device*.) Examples of explosive-actuated devices are jet tappers and jet perforators.

Explosive Charge. The quantity of explosive material used in a blasthole, coyote tunnel, or explosive device.

Explosive Loading Factor. The amount of explosive used per unit of rock. Also called *Powder Factor*.

Explosive Materials. Any explosive, blasting agent or detonator. The term includes, but is not limited to, dynamite, and other explosives, slurries, emulsions, and water gels, black powder, pellet powder, initiating explosives, detonators (blasting caps), safety fuse, squibs, detonating cord, smokeless propellants, small arms ammunition, small arms percussion caps, smokeless primers, igniter cord and igniters. (**)

A list of explosive materials determined to be within the coverage of 18 USC Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials, is issued at least annually by the Director of the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury.

The U.S. Department of Transportation classification of explosive materials used in commercial blasting operations are not identical with the statutory definitions of the Organized Crime Control Act of 1970, Title 18 USC Section 841. To achieve uniformity in transportation the definitions of the U.S. Department of Transportation in Title 49 Code of Federal Regulations parts 1999 subdivides these materials into:

DIVISION 1.1 Mass exploding (Class A explosives)

DIVISION 1.2 Projection hazard (Class A or Class B explosives)

DIVISION 1.3 Fire hazard, minor blast (Class B explosives) or projection hazard

DIVISION 1.4 Minor explosion (Class C explosives) hazard not mass exploding

DIVISION 1.5 Insensitive explosives, (Blasting Agents) Very little probability of initiation or transition from burning to detonation during transport.

Explosive Strength. The amount of energy released by an explosive upon detonation which is an

indication of the capacity of the explosive to do work. (see also *Energy*.)

Extra (Ammonia) Dynamite. A dynamite in which part of the nitroglycerin is replaced by ammonium nitrate in sufficient quantity to result in the same weight strength.

Extraneous Electricity. Electrical energy, other than actual firing current or the test current from a blasting galvanometer, that is present at a blast site and that could enter an electric blasting circuit. It includes stray current, static electricity, RF (electromagnetic) waves, and time varying electric and magnetic fields.

Fertilizer Grade Ammonium Nitrate. A grade of ammonium nitrate as defined by The Fertilizer Institute.

Fire Extinguisher Rating. A rating set forth in the National Fire Code which may be identified on an extinguisher by a number (5, 20, 70, etc.) indicating the extinguisher's relative effectiveness followed by a letter (A, B, C, etc.) indicating the class or classes of fires for which the extinguisher has been found to be effective.

Fire-resistant. Construction designed to provide reasonable protection against fire. (For exterior walls or magazines constructed of wood, this shall mean fire resistance equivalency provided by sheet metal of not less than 26 gauge.)

Firing Current. An electric current of recommended magnitude and duration to sufficiently energize an electric detonator or a circuit of electric detonators.

Firing Line. The wire(s) connecting the electrical power source with the electric blasting circuit.

Flags-Danger. Flags, usually red, which may or may not be imprinted with a warning and used to caution personnel around explosives operations, or displayed on trucks transporting explosives.

Flammability. The ease with which an explosive material may be ignited by flame and heat.

Flashover. The sympathetic detonation between explosive charges or between charged blastholes.

Flash Point. The lowest temperature at which vapors from a volatile combustible substance ignite in air when exposed to flame, as determined in an apparatus specifically designed for such testing.

Flyrock. Rocks propelled from the blast area by the force of an explosion.

Fragmentation. The breaking of a solid mass into pieces by blasting.

Free Face. A rock surface exposed to air or water which provides room for expansion upon fragmentation; sometimes called open face.

Fumes. The gaseous products of an explosion. For the purpose of determining the fume classification of explosive materials, only poisonous or toxic gases are considered.

Fuse. See *Safety Fuse*.

Fuse Cap. A detonator which is initiated by a safety fuse; also referred to as an ordinary blasting cap. Synonymous with *Blasting Cap*, also see *Detonator*.

Fuse Cutter. A mechanical device for cutting safety fuse clean and at right angles to its long axis.

Gap Sensitivity. The maximum length of gap across which a detonation wave will travel and initiate a second or receptor cartridge. Both primer and receptor cartridge should be of the same composition, diameter, and weight. Usually refers to gap in air but other media may be used.

Gelatin Dynamite. A type of highly water resistant dynamite characterized by its gelatinous or plastic consistency.

Geology. A description of the types and arrangement of rock in an area; the description usually includes the dip and strike, the type and extent of preexisting breaks in the rock, and the hardness and massiveness of the rock, as these affect blast design.

Grains. In the avoirdupois system of weight measurement 7,000 grains are equivalent to one standard 16 ounce pound (0.45 kg.). A grain is 0.0648 grams in both the avoirdupois and the troy system.

Ground Fault. An electrical path between parts of the blasting circuit and earth.

Ground Vibration. Shaking the ground by elastic waves emanating from a blast; usually measured in inches per second of particle velocity.

Hangfire. The detonation of an explosive charge at some non-predictable time after its normally designed firing time.

Hardwood. Red oak, white oak, hard maple, ash or hickory, free from loose knots, wind shakes, or similar defects.

Hazardous Materials Advisory Council (HMAC). An international organization representing shippers and carriers, container manufacturers and reconditioners, and emergency response companies for hazardous materials.

Hertz (Hz). Synonymous with *cycles per second*.

High Explosives. Explosives which are characterized by a very high rate of reaction, high pressure development, and the presence of a detonation wave in the explosive.

Highwall. A nearly vertical face at the edge of a bench, bluff, or ledge on a surface excavation.

Hole Diameter. The cross-sectional width of the borehole.

Igniter Cord. A small diameter pyrotechnic cord that burns at a uniform rate with an external flame and used to ignite a series of safety fuses.

IME. See *Institute of Makers of Explosives*.

IME-22 Container (Compartment). A container (portable), or a compartment (permanently affixed to a vehicle), which is constructed in accordance with IME SLP-22 specifications and is authorized by the

Department of Transportation for the transport of certain types of detonators on the same vehicle with other explosives.

IME Fume Classification. A classification indicating the amount of carbon monoxide and hydrogen sulfide produced by an explosive or blasting agent. Explosives with positive oxygen balances are not considered as being acceptable in these classifications. See Appendix F

Incendivity. The property of an igniting agent (e.g., spark, flame or hot solid) which indicates it is of sufficient intensity to ignite flammable material or explosive gases.

Inhabited Building. A building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

Initiation. The start of deflagration or detonation in an explosive material.

Initiator. A detonator, detonating cord or similar device used to start detonation or deflagration in an explosive material.

Instantaneous Detonator. A detonator that has a firing time of essentially zero seconds as compared to delay detonators with firing times of from several milliseconds to several seconds.

Institute of Makers of Explosives. A nonprofit, safety oriented trade association representing producers of commercial explosive materials in the U.S. and Canada and dedicated to safety in the manufacture, transportation, (IME) storage, handling and use of explosive materials.

Institute of Makers of Explosives No. 8 Test Detonator. IME No. 8 test detonator has 0.40 to 0.45 grams PETN base charge pressed to a specific gravity of 1.4 g/cc and primed with standard weights of primer, depending on manufacturer.

Inventory. A listing of all explosive materials stored in a magazine.

Issuing Authority. The governmental agency, office, or official vested with the authority to issue permits or licenses.

Leading (Lead) Lines or Wires. The wires connecting the electrical power source with the circuit containing electric detonators. See *Firing Line*.

Leakage Resistance. The resistance between the blasting circuit (including lead wires) and the ground.

Leg Wires. The two single wires or one duplex wire extending out from an electric detonator.

Loading. Placing explosive material in a blasthole or against the material to be blasted.

Loading Density. The weight of explosive loaded per unit length of borehole occupied by the explosive, expressed as pounds/foot or kilograms/meter of borehole.

Loading Pole. A nonmetallic pole used to assist in the placing and compacting explosive charges in boreholes.

Low Explosives. Explosive which are characterized by deflagration or low rate of reaction and the development of low pressure. See *Deflagration*.

Magazine. Any building, structure, or container, other than an explosives manufacturing building, approved for the storage of explosive materials.

Magazine Keeper. A person responsible for the inventory and safe storage of explosive materials, including the proper maintenance of explosive materials, storage magazines and areas.

Magazine, Surface. A specially designed and constructed structure for the storage of explosive materials on the surface of the ground.

Magazine Underground. A specially designed and constructed structure for the storage of explosive materials underground.

Main Explosive Charge. The explosive material that performs the major work of blasting.

Manufacturing Codes. Code markings stamped on explosives materials packages, indicating among other information, the date of manufacture.

Mass Explode (Mass Explosion). An explosion which affects almost the entire load or quantity of explosives virtually instantaneously.

Maximum Recommended Firing Current. The highest electric current which will result in the safe and effective performance of an electric detonator.

Millisecond. One thousandth part of a second (.001 or 1/1000 sec.)

Mine Safety And Health Administration (MSHA). An agency of the Department of Labor concerned with promulgation and enforcement of health and safety regulations in the mining field.

Misfire. A blast or specific borehole that failed to detonate as planned. Also, the explosive materials that failed to detonate as planned.

MS Connectors. Nonelectric, short interval (millisecond) delay devices for use in delaying blasts which are initiated by detonating cord. Same as *Detonating Cord MS Connectors*.

MSHA Approval. A document issued by MSHA which states that an explosive or explosive unit has met MSHA requirements and which authorizes an approval marking identifying the explosive or explosive unit as approved as permissible.

Muckpile. The pile of broken material resulting from a blast.

National Fire Protection Association (NFPA). An independent, non-profit association organized to promote the science and improve the methods of fire protection and prevention, electrical safety and other related safety goals.

National Fire Protection Association (NFPA) Standards. Standards for explosive materials and ammonium nitrate issued by the National Fire Protection Association.

National Safety Council (NSC). A non-profit organization charged by Congress to provide a regular information service on the causes of accidents and ways to prevent them.

Natural Barricade. Natural features of the ground such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare.

Nitroglycerin. An explosive chemical compound used as a sensitizer in dynamite and represented by the formula $(C_3H_5(ONO_2)_3$.

Nonelectric Detonator. A detonator that does not require the use of electric energy to function.

Occupational Safety And Health Administration (OSHA). An agency of the Department of Labor active in eliminating occupational hazards and promoting employee health and safety.

Office of Surface Mining (OSM). An agency of the Department of the Interior regulating surface coal mining and the surface effects of underground coal mining.

Overburden. Material of any nature laying on top of a deposit of material which is to be mined.

Parallel Blasting Circuit. An electric blasting circuit in which one leg wire of each detonator is connected to one of the wires from the source of firing current and the other wire from the firing current source. (Can also be used to refer to certain nonelectric systems.)

Particle Velocity. See *Velocity*.

Parting. A rock mass located between two seams of coal; a joint or crack in rock.

Permissible Diameter. The smallest allowable diameter of particular permissible explosive, as approved by the Mine Safety and Health (SMALLEST) Administration (MSHA).

Permissible (MSHA) Approved Explosives. Explosives that are approved by the Mine Safety and

Health Explosives Administration for use in gassy and dusty atmospheres. Permissible explosives must be used and stored in accordance with certain conditions specified by the Mine Safety and Health Administration (MSHA).

Placards. Signs placed on vehicles transporting hazardous materials (including explosive materials) indicating the nature of the cargo.

Phosphoric Materials. [Binary Explosives], two or more unmixed, commercial manufactured, prepackaged chemical ingredients including oxidizers, flammable liquids or solids, or similar substances that are not independently classified as explosives but which when mixed or combined form a mixture that is classified as an explosive and that is intended for blasting. It may be classified by the Hazardous Materials Regulations of the U.S. Department of Transportation as an explosive depending on its susceptibility to detonation. (**)

Powder. A common synonym for explosive materials.

Powder Factor. The amount of explosive used per unit of rock. Also called *Explosive Loading Factor*.

Power Source. The source of power for energizing electric blasting circuits, e.g., a blasting machine or power line.

Preblast Survey. A documentation of the existing condition of structures near an area where blasting is to be conducted.

Premature Firing. The detonation of an explosive charge before the intended time.

Presliming (Preshearing). A smooth blasting method in which cracks for the final contour are created by firing a single row of holes prior to the initiation of the rest of the holes in the blast pattern.

Prilled Ammonium Nitrate. Ammonium nitrate in a pelleted or prilled form.

Primary Blast. A blast used to fragment and displace material from its original position to facilitate subsequent handling and crushing.

Primary Explosive. A sensitive explosive which nearly always detonates by simple ignition from such means as spark, flame, impact, friction, or other primary heat sources of appropriate magnitude.

Primer. A unit, package or cartridge or explosives used to initiate other explosives or blasting agents, and which contains: (1) a detonator; or (2) detonating cord to which is attached a detonator designed to initiate the detonating cord.

Propagation. The detonation of an explosive charge by an impulse received from an adjacent or nearby explosive charge.

Quantity-Distance Table. A table listing minimum recommended distance from explosives materials stores of various weights to a specific location.

Radio Frequency Energy (RF). The energy radiated as electromagnetic waves in the radio frequency spectrum.

Radio Frequency Transmitter. An electronic transmitting device which radiates radio frequency waves. The transmitting device may be fixed (stationary) or mobile, and includes car telephones, citizens band radios, AM and FM radio transmitters, television transmitters and radar transmitters.

Regulations Federal, State, Local. Regulations promulgated by Federal, State or local regulatory agencies governing the manufacturer, transportation, storage, sale, possession, handling and use of explosive materials.

Relief. The effective distance from a blasthole to the nearest free face (Synonymous with burden.)

Resistance. The measure of opposition to the flow of electrical current, expressed in ohms.

Rotational Firing. Delay blasting system used so that the detonating explosives will successively displace the burden into the void created by previously detonated explosives in holes which fired at an earlier delay period.

Round. A group of boreholes fired or intended to be fired in a continuous sequence with the application of initiating energy.

Safety Fuse. A flexible cord containing solid flammable materials by which fire or flame is conveyed at a continuous and uniform rate from the point of ignition to a cut end. A fuse detonator is usually attached to that end, although safety fuse may be used without a detonator to ignite material such as deflagrating explosives.

Safety Standard. Suggested precautions relative to the safety practices to be employed in the manufacture, transportation, storage, handling and use of explosive materials.

Scaled Distance. A factor relating similar blast effects from various weight charges of explosive material at various distances. Scaled distances referring to blasting effects is obtained by dividing the distance of concern by a fractional power of the weight of the explosive materials.

Seam. A stratum or bed of coal or other material. May also refer to a crack or joint in a blast area which may be filled with mud or other material. A seam may be in any orientation.

Secondary Blasting. Blasting to reduce the size of boulders resulting from a primary blast.

Seismograph. An instrument, useful in monitoring blasting operations, which records ground vibration. Particle velocity, displacement, or acceleration is generally measured and recorded in three mutually perpendicular directions.

Sensitiveness. A measure of an explosive's cartridge-to-cartridge propagating ability under certain test conditions. It is expressed as the distance through air at which a primed half cartridge (donor) will detonate an unprimed half cartridge (receptor). Also see *Gap Sensitivity*.

Sensitivity. A physical characteristic of an explosive material classifying its ability to be initiated upon receiving an external impulse such as impact, shock, flame, friction or other influence which can cause explosive decomposition.

Cap-Sensitive Explosive Material. Any explosive material that can be detonated by means of a No. 8 blasting cap or its equivalent.

Cap-sensitive material SHALL be classified as an explosive.

Non Cap-Sensitive Explosive Material. Any explosive material that can NOT be detonated by means of a No. 8 blasting cap or its equivalent. Non cap-sensitive material SHALL NOT be classified as an explosive. (**)

Separation Distances. Minimum recommended distances from explosive materials accumulations to other specified locations.

Sequential Blasting Machine. A blasting machine designed to actuate separate series of detonators at accurately timed intervals. Also called *Sequential Timer*.

Sequential Timer. See *Sequential Blasting Machine*.

Series Blasting Circuit. An electric blasting circuit that provides one continuous path for the current through all caps in the circuit.

Series-in-parallel Blasting Circuit. A circuit in which electric detonators are divided into two or more balanced groups being connected together in series and the groups being connected together in parallel.

Shock Tube. A small diameter plastic tube used for initiating detonators. It contains only a limited amount of reactive material so that the energy that is transmitted through the tube by means of a detonation wave is guided through and confined within the walls of the tube.

Shock Wave. A transient pressure pulse that propagates at supersonic velocity.

Short Delay Blasting. The practice of detonating blastholes in successive intervals where the time difference between any two successive detonations is measured in milliseconds.

Shot Anchor. A device that anchors explosive material charges in the borehole so that the charges will not be blown out by the detonation of other charges or, in seismic work, cannot be pulled out of the borehole by the leg wires.

Shot Break. A space consisting of an undrilled or drilled area which may include loaded or unloaded blastholes to separate two individual blasts located on the same bench.

Shot Firer. See *Blaster*. (Shot firer usually refers to an underground coal mine blaster).

Shunt (Shunting). The shorting together of the free ends of (1) electric detonator leg wires, or (2) the wire ends of an electric blasting circuit or part thereof. The term also applies to an electrical shorting device applied to the free ends of electric detonators by the manufacturer.

Signs - Explosive (Placards). Signs, called placards, placed on vehicles transporting explosives denoting the character of the cargo, or signs placed near storage areas as a warning to unauthorized personnel.

Slurry. see *Water Gel* or *Slurry*.

Spacing. The distance between boreholes. In bench blasting, the distance is measured parallel to the free face and perpendicular to the burden.

Specific Gravity. The ratio of the weight of any volume of substance to the weight of an equal volume of pure water.

Stability. The ability of an explosive material to retain chemical and physical properties specified by the manufacturer when exposed to specific environmental conditions over a particular period of time.

Static Electricity. Electric charge at rest on a person or object. It is most often produced by the contact and separation of dissimilar insulating materials.

Stemming. Inert material placed in a borehole on top of or between separate charges of explosive material. Used for the purpose of confining explosive materials or to separate charges of explosive material in the same borehole.

Storage. The safekeeping of explosive materials usually in specially designed structures called magazines.

Stray Current. A flow of electricity outside an insulated conductor system.

Subdrilling. The practice of drilling boreholes below floor level or working elevation to insure breakage of rock to working elevation.

Sympathetic Detonation. The detonation of an explosive material as the result of receiving an impulse from another detonation through air, earth or water. Synonymous with *Sympathetic Propagation*. (See also *Flashover*.)

Table of Recommended Separation Distances of Ammonium Nitrate and Blasting Agents From Explosives or Blasting Agents. A quantity distance table designed to prevent explosion of ammonium nitrate and ammonium nitrate-based blasting agents by propagation from nearby stores of high explosives or blasting agents. It is based on a "donor-receptor" relationship developed by the U.S. Bureau of Mines.

Tamping. The action of compacting the explosive charge or the stemming in a blasthole. Sometimes refers to the stemming material itself.

Tamping Pole. A wooden or plastic pole used to compact explosive charges or stemming. (See also *Loading Pole*.)

Temporary Storage. Storage of explosives for less than 24 hours.

Test Blasting Cap No. 8. See *Institute of Makers of Explosives No. 8 Test Detonator*.

Toe. In bench blasting, excessive burden measured at the floor level of the bench.

Unbarricaded. The absence of a natural or artificial barricade around explosive storage areas of facilities.

Unconfined Detonation Velocity. The detonation velocity of an explosive material fired without confinement; for example, a charge fired in the open. (Paper tubes are generally not considered as confinement.)

Underwriters Laboratory Inc. (UL). A nationally recognized incorporated testing laboratory

qualified and equipped to conduct the necessary tests to determine compliance with appropriate standards and the satisfactory performance of materials or equipment in actual usage.

U.S. Bureau of Mines (USBM). A former bureau of the Department of Interior active in promoting safety in coal mines and in carrying out board programs in mining and related fields.

Volt. The unit of electromotive force. It is the difference in potential required to make a current of one ampere flow through a resistance of one ohm.

Velocity. The measurement of speed. (**)

Velocity, Particle. The velocity at which the earth vibrates, measured in inches/sec, or cm/sec. (**)

Velocity, Peak Particle. The highest recorded particle velocity. (**)

Velocity, Seismic. The velocity at which a vibration or seismic wave travels in the earth outward from the source. It is measured in thousands of feet per second. (**)

Volume Strength. Synonymous with *Cartridge Strength.* See *Bulk Strength.*

Warning Signal. A visual or audible signal which is used for warning personnel in the vicinity of the blast area of the impending explosion.

Water Gel or Slurry. A wide variety of materials used for blasting manufactured with varying degrees of sensitivity to initiation and may be classified as explosives or non explosive blasting agents. Water gels may be premixed at an explosive manufacturing building or mixed at the site immediately before delivery into the borehole. (**)

Water Resistance. The ability of an explosive to withstand the desensitizing effect of water penetration.

Watt. A unit of electrical power equal to one joule per second.

Weight Strength. The energy of an explosive material per unit of weight. Often expressed as a

percentage of the energy per unit of weight of a specified explosive standard.

(**) Commonwealth of MA Board of Fire Prevention Regulations, 527 CMR 13.03 Definitions

c. *General requirements.* These requirements apply equally to division l. Construction Blasting and division m. Quarry Blasting.

1. Use And Handling Permit (Permit To Blast) Provisions.

(a) Use and Handling Permit shall be issued by the Head of the Boston Fire Department for all blasting conducted within Boston City limits.

(b) Prior to a Use and Handling Permit being issued, the Blaster shall provide the following:

(1) A valid Explosive Users Certificate (Own and Possess Certificate) issued by the State Fire Marshal.

(2) A certificate of insurance providing General Liability insurance with limits of not less than \$1,000,000/\$1,000,000 (Note: a Use and Handling Permit shall be issued only for the explicit time period covered by the effective dates of the GL policy).

(3) A Blasting Bond with the City of Boston or the Commonwealth of Massachusetts named as the certificate holder. (Note: a Use and Handling Permit shall be issued only for the period of time covered by the effective dates of the Bond).

(4) A Certificate of Competency (Blaster's License) for each person(s) who could be responsible for blasting operations including shot design, charge loading, wiring, and detonation.

(5) Written proof, in a form approved by the Head of the Fire Department that Dig Safe has been notified of the proposed blasting operations and a dig safe number was issued in accordance with M.G.L c. 82 § 40.

(6) Proof that the required Preblast Inspection Surveys have been completed.

(7) The route that the explosives are going to be transported to the site must be pre-approved by the Special Hazards Section of the Fire Prevention Division. The time of arrival at the site and the time leaving the site should be included.

d. *Preblast information requirements.*

1. A blast analysis and a blast design plan as specified in 527 CMR 13.09 (1), (k) & (l), shall be provided and explained to the Head of the Fire Department.

2. The blast analysis shall consider adjacent area structure(s), building(s), building foundations, utilities, including gas and water supply lines, septic systems and swimming pools, and area geology within the distances defined in Table 1 in division h. The blast analysis shall identify commercial equipment such as computers, electron microscopes, laser equipment, relays etc., which are sensitive to vibrations, and other underground objects that might be damaged by the effects of a blast.

3. In preparing the blast design plan and blast analysis, the following shot variables, as a minimum, shall be considered to minimize the adverse effects of ground vibrations and flyrock:

- (a) Maximum charge weight detonating at one time (i.e., within 8 milliseconds).
- (b) True Distance (distance the waves must travel).
- (c) Geological conditions.
- (d) Degree of confinement.
- (e) Physical properties of the rock.
- (f) Coupling.
- (g) Spatial distribution.
- (h) Detonator timing scatter.
- (i) Time duration of energy release.
- (j) Type of explosive or blasting agent.

4. The following shot variables, as a minimum, shall be considered to minimize the adverse effects of air blast:

- (a) Maximum charge weight detonating at one time (i.e., within 8 milliseconds).
- (b) Depth of burial of the charges.
- (c) Exposed detonating material on the ground surface.
- (d) Atmospheric conditions.
- (e) Temperature and temperature gradients.
- (f) Wind velocity, direction, and gradients.
- (g) Atmosphere and time of day.
- (h) Topography.
- (i) Volume of displaced rock.
- (j) Delay interval and orientation.
- (k) Type of explosive.

5. The Blaster shall familiarize the Fire Department with the site and proposed Blasting Operations. The blaster shall provide a vicinity map drawn to scale to illustrate the blasting zone(s) and all structures and other infrastructure. The vicinity map should include all structures to a radial distance determined from Table 1 in division h. A visit to the site to familiarize the Fire Department's designated personnel with conditions may be required per order of the Head of the Fire Department.

Exception: For quarries complying with all of the requirements of division m. of this subsection, the radial distance of the vicinity map shall be the distance of the Blast Analysis as determined in subdivision m.3.

6. A preblast conference may required by the Head of the Fire Department, at which the Head of the Fire Department shall review its concerns and comments with the blaster. Any conditions resulting

from this conference shall be made in writing and shall become part of the Permit by reference.

7. The Head of the Fire Department, in a written statement, shall, if it deems it necessary and in the public interest, require an independent blasting consultant, specialist, engineer or geologist, at the cost of the applicant, acceptable to the Head of the Fire Department be retained as a consultant. Said consultant, specialist, engineer or geologist shall produce a preblast analysis and assist the blaster in the preparation of a blast design plan as defined in 527 CMR 13.09(1), (k) & (l), and by this subsection. The analysis will include an assessment of the impacts of blasting on the stability of existing steep soil or rock slopes in the vicinity, sufficient to meet approval of the Head of the Fire Department.

e. Storage of explosive materials.

1. On site storage of explosive materials shall be in approved day boxes or in DOT approved truck mounted magazines as detailed in 527 CMR 13.05 Storage.

2. Adequate security must be provided to prevent unauthorized access to the explosive material while it is on-site.

3. A system must be in place to warn responding emergency personnel about location of explosives. The system utilized should be documented and submitted at time of permit application.

4. An effort shall be made to locate the day box, or truck mounted magazine, at safe distances from homes and roads.

5. Overnight storage of explosives on site shall not be allowed unless written permit is obtained from the Fire Chief or his designee. If a storage permit is granted then location of the magazine shall comply with Table 1 of 527 CMR 13.05. In addition, a fire watch as determined by the Head of the Fire Department of not more than two (2) uniformed firefighters shall be posted on site, at the blaster's expense with sufficient fire fighting equipment to extinguish or control any fire exposure to the stored explosives.

f. Transportation of explosives.

1. All vehicles transporting explosives in or through the City of Boston shall be under the jurisdiction of the Fire Department. All vehicles transporting explosives in or through the City of Boston shall also be under the jurisdiction of any other authority given legal jurisdiction by applicable state or federal regulation or law.

2. The route that the explosives are going to be transported to the site must be pre-approved by the Special Hazards Section of the Fire Prevention Division. The time of arrival at the site and the time leaving the site should be included.

3. All traffic violations involving vehicles transporting explosives shall be reported to the Head of the Fire Department for investigation.

4. The Fire Chief, or his designee, or the State Fire Marshal, or his designee, shall investigate all traffic accidents involving vehicles that are transporting explosives.

5. None of the vehicles involved in the accident, or the explosives, shall be moved without the approval of the Fire Chief, or his designee, or the State Fire Marshal, or his designee.

g. Record keeping.

1. All blasting operations must be fully documented, as required in 527 CMR 13.09(8) Blasting Log and herein. The following are minimum standards for what are regarded as the essentials of adequate blasting logs and vibration records. These logs and vibration records must be provided to the Head of the Fire Department the same day as the blast. Records of each event must be kept, by the licensed blaster, for a minimum of three years. Quarries, and other locations where long-term blasting occurs, should also keep records on-site. Records of each event shall:

(a) Include the name and blaster's license, of the operator conducting the blast.

(b) Include the location, date and time of the blast and reference to the blasting permit granted for the blast.

(c) Identify the nearest dwelling, public building, school, church, institutional building or underground structure outside the permit area and establish the direction and distance from the nearest blasthole to the nearest structure. All distances shall be made accurately by direct measurement in the field or by measurement from a scale drawing of the blast vicinity.

(d) Include weather conditions, including those which may cause possible adverse blasting effects.

(e) Record the type of material blasted.

(f) Incorporate sketches of the blast pattern, including number of holes, burden, spacing, decks, and delay pattern.

(g) Specify the diameter and depth of the holes, and type and length of stemming at the top of borehole and between explosive decks in multi-deck shots.

(h) Record the type of explosive used, the total weight of explosive used, the weight per hole and the maximum weight of explosives detonated in any one-delay period.

(i) Specify the initiation system and the nominal firing time of each distinct detonation.

(j) Provide detailed descriptions of mats or other protection used.

(k) Document the type of seismographic instruments, their sensitivity (or range setting) and their calibration signals and certificates of annual calibration.

(l) Document the exact location of seismographic instrument, date, time and accurate distance from the blast.

(m) Show that name and firm (can be the operator) analyzing the seismographic record.

2. Vibration levels and airblast recorded. The levels that were actually recorded should be

compared to the predicted levels in the blast plan and blast analysis. If the actual observations are consistently higher than those predicted, then modifications should be made to the scaled distance relationship being used and the new scaled distance predictive relationship, including all data and statistical analyses, should be forwarded to the Head of the Fire Department.

h. *Preblast inspection surveys.*

1. Preblast inspection surveys shall be conducted as outlined in 527 CMR 13.09(10) Preblast Inspection Surveys, and by this subsection.

2. For blasting operation for which no historical data exists to assist in predicting probable vibration levels, the Head of the Fire Department may order preblast inspection surveys to be conducted to distances that differ from the 250 feet distance required by 527 CMR 13.09. The required distance for preblast inspection surveys is dependent on the size of the blast, as measured in terms of the maximum pounds of explosives detonated per delay. Table 1 provides distances to which preblast inspection surveys shall be required.

Exception: Quarries complying with all of the requirements of division m. of this subsection shall not be required to conduct preblast surveys unless required by 527 CMR.

3. A map drawn to scale shall be submitted to identify all structures for which preblast surveys were made. This site map shall include all structures located at distances determined from Table 1.

TABLE 1
Required Radial Distances for Preblast Inspection Surveys

Explosives, W pounds over	Explosives, W pounds not over	Distance to nearest blasthole, feet
0	10	250
11	20	325

Explosives, W pounds over	Explosives, W pounds not over	Distance to nearest blasthole, feet
21	30	400
31	40	475
41	50	550
51	60	625
61	70	700
71	80	775
81	90	850
91	100	925
101 or more		$100 * W^{1/2}$

W = maximum pounds of explosives per delay (i.e., detonated within 8 milliseconds)

Note: The distances in Table 1 are derived from 527 CMR Section 13.09 Table 2. The distances in Table 1, The Preblast Survey Table, are increased by approximately 50% over the distances in 527 CMR Section 13.09 Table 2. This increase is needed to take into account that particle velocities may be much higher than anticipated using the scaled distances assumed in 527 CMR Section 13.09 Table 2. Under some geological conditions particle velocities may be higher by a factor of two or more. Under conditions of high confinement, such as the opening holes in a heading or pre-splitting they may be higher by a factor of five or more. These numbers can also be derived approximately by utilizing the statistics published in RI-8507 and developing a model for the 95th percentile.

i. *Blasting operations.*

1. No loaded drillholes shall be left unattended. Loaded or drillholes that are present after normal working hours shall not be detonated unless and until approval is received from the Head of the Fire Department or his designee, or the Fire Marshal or his designee.

2. The Fire Department shall be notified by the blaster in charge each day that blasting is done at least two hours before any blasting on site. It is required that the blaster shall also call the Fire Alarm Office immediately before each blast.

3. Blasting mats shall be used for all blasts except where the Head of the Fire Department deems it impractical.

Exception: Quarries complying with all of the requirements of division m. of this subsection shall not be required to use blasting mats unless required by 527 CMR.

4. The blast site shall be tested for extraneous, static and electromagnetic currents, especially when electric blasting caps are used near overhead power transmission lines, and within the recommended Tables of Distance from radio transmitters as listed and graphed in Institute of Makers of Explosives, Safety Library Publication No. 20, "Safety Guide for the Prevention of Radio Frequency Radiation Hazards in the use of Commercial Electric Blasting Detonators (Blasting Caps)", December 1988.

j. *Seismograph monitoring of blasts.*

1. All seismographs shall be placed and utilized in accordance with 527 CMR Section 13 and the Seismograph Field Practice Guidelines as listed in Appendix K of ISEE Blasters Handbook 17th Edition.

2. In all cases, the operator should describe the field conditions and set-up procedures in the permanent record of each blast.

3. One seismograph shall be placed at the location of the closest residence or above ground structure, not controlled by the project, to the blast. A second seismograph shall be placed at the location that is at the closest house or structure, not controlled by the project, approximately 180° away from the first seismograph, or at another location mutually agreed upon by the Blaster and the Head of the Fire Department. Where it is deemed necessary by the Head of the Fire Department, a third seismograph shall be located at a residence or other structure mutually agreed upon by the Blaster and the Head of the Fire Department.

k. *Vibration and airblast.* Blasts that exceed the maximum allowable limit for peak particle velocity vs, frequency, or decibel levels as established by this subsection or are known to the blaster to have produced flyrock shall immediately be reported to the Head of the Fire Department. In case of exceedance of vibration or airblast limits, the blaster shall, prior to the next blast, forward to the Head of the Fire Department a written statement, signed by the responsible Blaster, as to why the exceedance occurred and what steps will be taken to prevent further exceedance. In the case of flyrock, the Blasting Permit must be re-applied for and will not be issued without an independent analysis of the blast, which shall include an explanation of the reasons why the flyrock occurred and recommended steps to be taken to prevent further flyrock incidents.

1. *Construction blasting.*

1. *Vibration and airblast.*

(a) The blaster shall be required to record the effects of all blasts on a seismograph of the type specified in 527 CMR 13.09(9)(C) 1 and 2.

(b) Blasting logs containing the information listed in 527 CMR 13.09(8) Blasting Log shall be kept for each blast.

(c) The ground vibration limits shall be the limits shown in 527 CMR 13.09(9) Allowable Limits of Effects of Blasting Option 2, Figure (b), Particle Velocity v. Frequency, USBM Recommendation (RI8507, 1980).

(d) The air blast limit shall be 133 dB peak.

m. *Quarry blasting.*

1. *Signage, notification, and access.*

(a) *Blasting signs, warnings and access control.* The operator shall:

(1) Conspicuously place a series of durable signs reading "WARNING! BLASTING AREA-DANGER" along the edge of any blasting area

that comes within 100 feet of any public right of way and at the point where any other road provides access to the blasting area.

(2) At all entrances to the permit area from public roads or highways, place conspicuous signs that state "WARNING! EXPLOSIVES IN USE" which clearly list and describe the meaning of the audible blast warning and the all-clear signals that are in place, and which the marking of blasting areas and charge holes waiting for firing within the permit area.

(3) Warning and all-clear signals of different character or pattern shall be sounded prior to and following each blast. Warning sirens or horns shall be deployed at the perimeter of the quarry and directed toward abutting inhabited structures. These devices shall produce a sound level in the range of 115 to 125 dB at the source. Prior to the start of each blasting season, all residences and businesses, identified in the blast analysis, shall be notified by means of legal notice in local newspapers or other equivalent means of public notice. Notification shall report the approximate date that blasting will commence for the upcoming season, the expected number of blasts per day and per week during the season, and clear explanations of the meaning of all warning and all-clear signals.

(4) Access within the blasting area shall be controlled to prevent the presence of unauthorized persons during blasting. No person shall enter the blasting area until an authorized representative has reasonably determined that no unusual hazards, such as imminent slides or undetonated charges exist, and access to and travel within the blasting area can be safely resumed.

2. *Safe vibration limits.*

(a) The ground vibration limits shall be the limits shown in 527 CMR 13.09(9) Allowable Limits of Effects of Blasting Option 2, Figure (b), Particle Velocity v. Frequency, USBM Recommendation (RI8507, 1980), except that the maximum peak particle velocity for all frequencies greater than 20 Hz shall be 1.0 in./sec.

Allowable vibration limits for quarry blasting are shown on Figure 1 and are listed in Table 2.

FIGURE 1
Vibration Limits for Quarries.

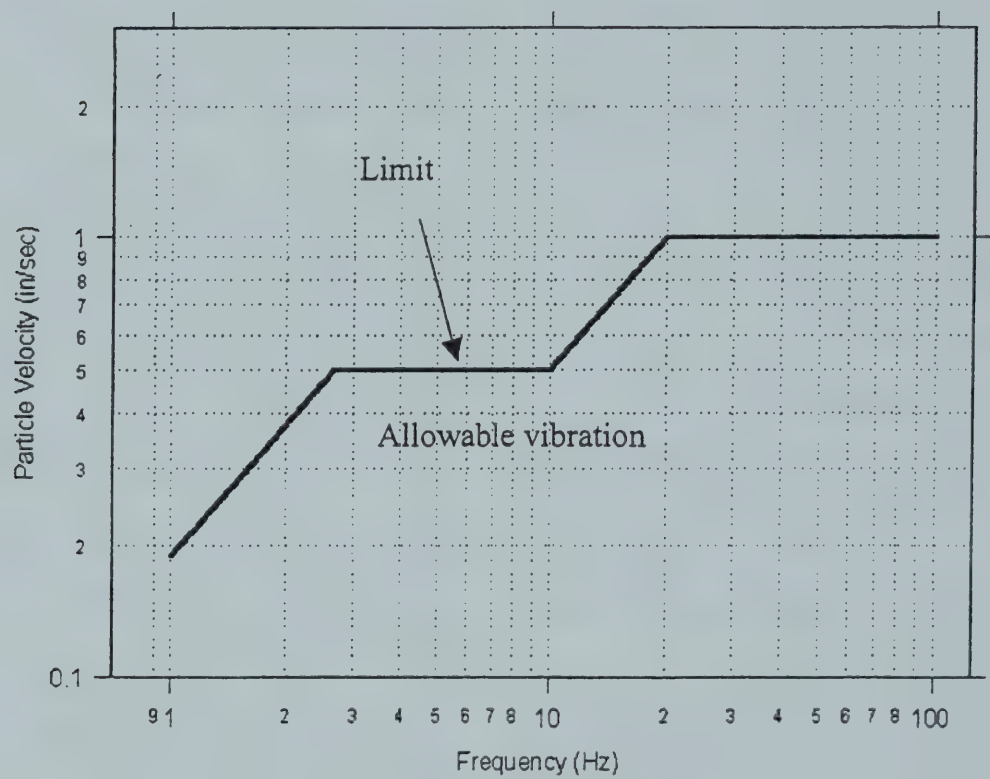


TABLE 2
Vibration Limits for Quarries

	VIBRATION LIMIT Particle Velocity (in/sec)
1.0	0.19
2.0	0.38
2.65 to 9.95	0.50
10	0.50
12	0.60
14	0.70

	VIBRATION LIMIT Particle Velocity (in/sec)
16	0.80
18	0.90
19.9	1.0
20 to 100	1.0

(b) Where sufficient blast data is available to prepare square root scaled distance plots, compliance with vibration limits shall be achieved by submittal of blast designs that predict 90% of the permitted vibration level with a 95% degree of

confidence. For the case that 95% of the vibrations have frequencies greater than or equal to 20 Hz, the target vibration for blast design shall be 0.90 x 1.0 in/sec, or 0.90 in/sec. For the case that 95% of the vibrations are greater than or equal to 10 Hz, the target vibration with a 95 % degree of confidence shall be 0.90 x 9.75 in/sec, or approximately 0.70 in/sec. For the case that 5% or more of the vibrations are less than 10 Hz, the target vibration for blast design shall be 0.90 x 0.5 in/sec, or 0.45 in/sec.

(c) Existing quarries shall analyze vibration data acquired during the previous blasting year for the purpose of designing blasts to comply with these vibration limits.

(d) New quarries, or quarries for which historical data is lacking, shall conduct a series of test blasts to establish vibration and noise propagation trends sufficient to predict vibrations at the 95% confidence level for proposed production blasts. Details of the test blasting procedures shall be submitted to the Head of the Fire Department for review and approval.

3. *Blast analysis.* The area for the blast analysis for quarries will include the area completely included within the line at which peak particle velocity exceeded 0.25 ips, during the previous 3 years. These distances shall be determined in the blast analysis using published or site-specific predictive equations. For the case that peak vibration and airblast observations significantly differ from predictions of published models, the blast analysis shall be performed using site-specific data and predictive models. Development and planned usage of site-specific predictive models for ground vibration and airblast propagation shall be documented in reports submitted to the Head of the Fire Department.

4. *Seismograph monitoring.* One seismograph shall be placed at the location of the closest inhabited building or structure, not controlled by the quarry, to the blast. A second seismograph shall be placed at the closest residence behind the open face of the blast. The third seismograph shall be placed at a location mutually agreed upon by the quarry and the Head of the Fire Department.

5. *Independent consultation.*

(a) Quarries shall retain the services of a consultant who shall, on an annual basis, review the seismographic reports from the proceeding year and make recommendations designed to minimize the impact from vibrations on the surrounding neighborhood, for the upcoming year based on the location in which the quarry intends to blast. Prior to each blasting season, representatives from the quarry together with representatives from the licensed blaster hired by the quarry and the consultant shall meet with the Head of the Fire Department or his designee to review the quarry's plans for blasting for the upcoming season.

(b) The consultant's annual reports should include analyses of all items that mitigate the effects of noise and vibration (N/V) transmitted into the neighborhoods surrounding the quarry. These reports need to be comprehensive and cumulative so that any new blasting contractor will have readily accessible the entire year-by-year history (i.e., past 5 years) of implementations of blast designs and the success or failure of such designs to maintain N/V amplitudes at levels acceptable to the Head of the Fire Department.

(c) At a minimum the shot variables to be considered are:

- (1) Maximum charge weight detonating at one time.
- (2) True distance (distance the waves must travel).
- (3) Geological conditions.
- (4) Confinement.
- (5) Physical properties of the rock.
- (6) Coupling.
- (7) Spacial distribution.
- (8) Detonator timing scatter.

(9) Time of energy release.

(10) Type of explosive.

n. *Severability.*

1. *Partial validity.* In the event any part or provision of this subsection is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which are determined to be legal; and it shall be presumed that this subsection would have been passed without such illegal or invalid parts or provisions.

2. *Segregation of invalid provisions.* Any invalid part of this subsection shall be segregated from the remainder of this subsection by the court holding such part invalid, and the remainder shall remain in effect.

(Ord. 2000 c. 6)

11-5A FIRE ALARM SYSTEMS.

11-5A.1 Definitions.

When used in this section, unless contrary intention clearly appears, the following words and phrases shall have the following meanings:

a. *Central Station Operating Company* shall mean a company equipped to receive a fire alarm signal from each of its customers and which then transmits to the Boston Fire Department (BFD) the location of any such alarm the central station operating company receives.

b. *Fire Alarm System* shall mean any heat-activated, smoke-activated, flame energy-activated or other such automatic device capable of transmitting a fire alarm signal to either a central station operating company or directly to the BFD by way of a master box.

c. *Fire Alarm System Malfunction* shall mean the transmittal of a fire alarm to a central station operating company or directly to the BFD by way of a master box which alarm is caused by a malfunction. For the purposes of this section, a malfunction is defined as the failure of a fire alarm system to operate in the normal or usual manner due to improper

installation or maintenance and/or mechanical defect(s) in the system, resulting in the transmittal of a needless alarm signal to the BFD.

d. *Fire Alarm System Owner* shall mean an individual or entity who owns the title to and/or has on his business or residential premises a fire alarm system equipped to send a fire alarm signal to a central station operating company or directly to the BFD by way of a master box.

e. *Fire Marshal* shall mean the Deputy Fire Chief in charge of the Fire Prevention Division of the BFD, designated by the Fire Commissioner as the Fire Marshal of the City of Boston.

f. *Half-year Period* shall mean January 1 through June 30 or July 1 through December 31, as the case may be, of any calendar year.

g. *Head of the Boston Fire Department* shall mean the Chief of the Boston Fire Department, designated by the Boston Fire Commissioner as Chief Executive Officer.

h. *Master Box Owner* shall mean an individual or entity who has on his business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the BFD by way of a master box.

(Ord. 1988 c. 5 § 2)

11-5A.2 Connection of Fire Alarm Systems to the BFD by Way of a Master Box.

Before the fire alarm system is connected to the BFD, the master box owner shall provide the Fire Marshal with the following information:

a. The name, address, and home and work telephone numbers of the master box owner;

b. The street address where the master box is located;

c. The names, addresses and telephone numbers of the persons or businesses protected by the fire alarm system connected to the master box; and

d. The names, addresses and home and work telephone numbers of at least two (2) persons other than the owner who can be contacted twenty-four (24) hours a day, who are authorized by the master box owner to respond to an alarm signal and who have access to the premises in which the master box is located.

If at passage of this section a fire alarm system has already been connected to the BFD by way of a master box, the master box owner shall comply with the requirements of this subsection within sixty (60) days after the BFD has sent him notice by first class mail of the requirements of this subsection.

If a master box owner fails to comply with this subsection, the Fire Marshal may assess a fine of fifty (\$50.00) dollars for each day of non-compliance. (Ord. 1988 c. 5 § 2)

11-5A.3 Connection of Central Station Operating Companies to the BFD.

Before the central station operating company is connected with the BFD, it shall provide the Fire Marshal with the following information:

a. The name, address and telephone numbers of the central station operating company;

b. The names, addresses, and home and work telephone numbers of at least two (2) persons who can be contacted twenty-four (24) hours a day, who are authorized by the central station operating company to respond to an alarm signal and who have access to the premises from where the alarm signal is emitting to the central station operating company; and

c. The name, address, home and work telephone numbers, and location of the premises of each customer of the central station operating company who has a fire alarm system equipped to send a fire alarm signal to the central station operating company.

If at the passage of this section a central station operating company already has a direct connection to the BFD, the central station operating company shall comply with the requirements of this subsection within sixty (60) days after the BFD has sent it notice by first class mail of the requirements of this subsection.

If a central station operating company fails to comply with this subsection, the Fire Marshal may assess a fine of fifty (\$50.00) dollars for each day of non-compliance. (Ord. 1988 c. 5 § 2)

11-5A.4 Updating Information.

Every master box owner and every central station operating company shall be responsible for updating the information herein required to be provided to the Fire Marshal. If the information provided changes, the master box owner and the central station operating company shall provide the Fire Marshal with the updated information by the January first, following the changes. If a master box owner or a central station operating company fails to comply with this subsection, the Fire Marshal shall assess a fine of fifty (\$50.00) dollars for each day of non-compliance. (Ord. 1988 c. 5 § 2)

11-5A.5 Fire Alarm System Malfunctions--Fines.

If there are more than three (3) fire alarm system malfunctions, as defined herein, in a particular building in any half-year period, then the Fire Marshal may assess a fine pursuant to M.G.L. Chapter 40, Section 21, against a fire alarm system owner for the fourth and any subsequent malfunction according to the following schedule:

- | | |
|--|----------|
| a. Fourth malfunction: | \$ 50.00 |
| b. Fifth malfunction: | \$ 75.00 |
| c. Sixth malfunction: | \$100.00 |
| d. Seventh malfunction: | \$150.00 |
| e. Eighth and any subsequent malfunction | \$200.00 |

Notice of citation regarding any malfunction shall be given to the owner in writing.

Except as set forth below, for the eighth and any subsequent malfunction in a particular building in any such half-year period, the Fire Marshal may assess an additional fine of two hundred (\$200.00)

dollars for each day after the date of such malfunction until the fire alarm system owner, through the Informal Determination process, either Demonstrates Compliance or Demonstrates No Malfunction, as those terms are defined below. The imposition of any such additional fee shall be suspended during the pendency of any Informal Determination or appeal proceeding as described below.

With respect to any malfunction for which an alarm system owner is cited, such owner shall have the right to seek to (i) Demonstrate Compliance or (ii) Demonstrate No Malfunction to the Fire Marshal. The Fire Marshal's decision or determination with respect thereto shall herein be called the "Informal Determination."

If the fire alarm system owner seeks an Informal Determination, then the Fire Marshal shall provide the owner with the opportunity or occasion to Demonstrate Compliance and/or No Malfunction.

The term "Demonstrate Compliance," as used herein, shall mean that the fire alarm system owner can demonstrate to the satisfaction of the Fire Marshal that the cause(s) of any such fire alarm system malfunctions are being adequately addressed or have been or can be remedied in a reasonable time period as determined by the Fire Marshal. The term "Demonstrate No Malfunction," as used herein, shall mean that the fire alarm system owner can demonstrate to the satisfaction of the Fire Marshal that the cited fire alarm was not caused by a fire alarm system malfunction.

1. If, within ten (10) business days after a fire alarm system owner's receipt of written notice of a citation of any fire alarm system malfunction, the fire alarm system owner seeks an Informal Determination by the Fire Marshal, and:

(a) If the Informal Determination is that the fire alarm system owner has Demonstrated Compliance, then there will be no additional fines, or

(b) If the Informal Determination is that the fire alarm system owner has not Demonstrated Compliance or No Malfunction, unless the owner appeals the Informal Determination under subsection 11-5A.7 hereof, then, for the eighth and any subsequent malfunction, due to the seriousness of this

situation, the Fire Marshal shall assess such additional fine of two hundred (\$200.00) dollars per day until the owner Demonstrates Compliance with respect to such violation.

2. If a fire alarm system owner seeks an Informal Determination at any time and such Informal Determination is that the fire alarm system owner has demonstrated No Malfunction, then the citation for any such malfunction shall be rescinded by the Fire Marshal.

3. If a fire alarm system owner appeals, under subsection 11-5A.7 hereof, any malfunction for which the owner is cited or assessed a fine, then, any fines shall be held in abeyance until final resolution of the appeal process. If any appellant is successful in such appeal process, no fines shall be assessed. If the appellant is unsuccessful in such appeal process, total fines shall be calculated from the day of the filing of the formal appeal.

(Ord. 1988 c. 5 § 2)

11-5A.5A Municipal Charges Lien.

If a fine assessed for a fire alarm system malfunction pursuant to subsection 11-5A.5 hereof has not been paid by the due date, the Fire Marshal, or his designee, shall impose a lien on the real property where such malfunction occurred, pursuant to the provisions of M.G.L. Chapter 40, Section 58 and shall notify the fire alarm system owner in writing of such lien. The provisions of this subsection shall apply to fines that remain unpaid or that become due and payable on or after the effective date of this subsection.

(Ord. 1992 c. 10 § 1)

11-5A.6 Restrictions on Tape Dialers and Similar Telephone Devices.

No fire alarm system shall be equipped with a tape dialer or similar automatic telephone device which will transmit an alarm message to any telephone lines of the BFD. If at the passage of this section a fire alarm system is equipped with such a tape dialer or similar automatic telephone device, the fire alarm system owner shall have sixty (60) days from passage of this section to disconnect such tape dialer or similar automatic telephone device. If a fire alarm system

owner fails to comply with this subsection, the Fire Marshal may assess a fine of fifty (\$50.00) dollars.
(Ord. 1988 c. 5 § 2)

11-5A.7 Appeal Procedures.

Any fire alarm system owner who is aggrieved by any action or determination taken by the Fire Marshal under this section may, within ten (10) business days of such owner's receipt of written notice of any such action or determination, or such longer period of time as may be authorized in writing by the Fire Marshal, file an appeal, in writing, to the Fire Marshal and to the head of the BFD, as defined herein. After notice of a citation to such owner, the Head of the BFD, or his designee, shall, within ten (10) days after such owner's appeal, hold a hearing, after which he shall issue a decision in which he affirms, annuls or modifies the action taken by the Fire Marshal, giving his reasons in writing therefor. The Head of the BFD shall send his decision to the owner by first class mail within ten (10) days after the hearing. The decision of the Head of the BFD shall be a final administrative decision. The owner shall have thirty (30) days from the date of the owner's receipt of such written decision to seek judicial review in the appropriate court.
(Ord. 1988 c. 5 § 2)

11-5A.8 Regulations and Enforcement.

The Fire Marshal may promulgate such regulations as may be necessary to implement this section. The Fire Marshal is authorized to pursue such legal action as may be necessary to enforce this section.
(Ord. 1988 c. 5 § 2)

11-5A.9 Deposit in the General Fund.

All fines assessed herein shall be payable to the City of Boston for deposit in the General Fund.
(Ord. 1988 c. 5 § 2)

11-5A.10 Severability.

The provisions of this section shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent

jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.
(Ord. 1988 c. 5 § 3)

11-5A.11 Effective Date.

This section shall take effect on January 1, 1989.
(Ord. 1988 c. 5 § 4)

11-5B PROHIBITING THE SALE, POSSESSION AND USE OF FIREWORKS.

11-5B.1 Sale, Possession and Use of Fireworks Prohibited.

No person shall sell, possess or use fireworks (including but not limited to firecrackers, cherry bombs, silver salutes, M-80's, torpedoes, sky-rockets, Roman candles, sparklers, rockets, wheels, colored fires, fountains, mines, serpents or other fireworks of like construction) within the City; provided, however, that duly licensed wholesalers may sell fireworks to retailers for resale outside the City; and provided further that persons having a permit issued under authority of M.G.L. Chapter 148, Section 10A, may purchase fireworks and display them in accordance with the provisions of Chapter 148 of the General Laws and in compliance with the rules and regulations of the Department of Public Safety.
(Ord. 2001 c. 9)

11-5B.2 Penalty.

Violators of any provision of this section shall be subject to a fine of not less than three hundred (\$300.00) dollars nor more than one thousand (\$1,000.00) dollars.
(Ord. 2001 c. 9)

11-5B.3 Severability.

The provisions of this section shall be severable and if any section, part, or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining section, part or portion thereof.
(Ord. 2001 c. 9)

11-5C REGISTRATION OF LABORATORIES.

11-5C.1 Purpose.

As a state, regional, national, and international medical, educational, and commercial center, the City of Boston is home to over five thousand (5,000) laboratories advancing cutting edge technologies and techniques that seek to benefit the residents of the City of Boston, the residents of Massachusetts and the United States, and the population of the world. In this pursuit, however, many laboratories utilize or generate radioactive, infectious, toxic, hazardous, or noxious substances, chemicals, or conditions. These substances, chemicals, or conditions have the latent and actual capacity to inflict grave harm upon people ill-equipped to manage their harmful conditions in the event of a public health or public safety emergency. The primary responders (for example, BFD, BPD, and/or EMS) do not currently have information that may prove critical to their emergency response – they do not know where all of the laboratories are located in the City of Boston and they do not know what is contained within these laboratories. These sections, by requiring registration of laboratories and inspections of laboratories, will, once fully implemented, ensure that the public safety and public health personnel have the information that they need to adequately, effectively, and safely respond to any emergencies occurring within laboratories in order to protect the welfare of the laboratory, the neighborhood, and the greater population.
(Ord. 2006 c. 4)

11-5C.2 Definitions.

Unless specifically indicated otherwise, the definitions contained in CBC 11-4, 11-5, and 11-5A shall apply and control in these sections.

City shall mean the City of Boston.

Commissioner shall mean the Commissioner of the Boston Fire Department.

Laboratory shall mean a building, room, or workplace designed and/or used for the development, conduct, or observation of scientific, including but not limited to the medical, chemical, physical, or biological disciplines, experimentation or research, including non-routine testing, analysis, experimentation, or other similar activities that involve

the use or storage of hazardous materials as defined by Section 20.02(C) of the City of Boston Fire Department Fire Prevention Code. Specifically excluded from this definition are classroom laboratories, dark rooms, autoclave rooms, pharmacies, drug stores, physician's offices or the offices of other direct-care health care providers, hospital or health care dispensaries, or other facilities providing medication directly to patients.

Laboratory facility shall mean a building or a portion of a building containing one (1) or more laboratories operated by a single owner-operator. No laboratory facility may be comprised of more than one (1) building or physical address.

Owner shall mean a person or entity that owns a laboratory or a laboratory facility.

Owner-operator shall mean a person or entity that operates a laboratory and shall include an owner-operator's duly authorized agent.
(Ord. 2006 c. 4)

11-5C.3 Registration and Database.

a. On or after January 1 but no later than April 1 of every calendar year subsequent to the year of a laboratory's or a laboratory facility's initial registration, every owner-operator shall register with the Commissioner each and every laboratory or laboratory facility of the owner-operator which shall include the most current information available to the owner-operator, but in no event shall that information be less recent than December 31 of the prior calendar year. The Commissioner shall prepare the forms for registration which shall require the owner-operator to identify (i) the name and contact information of the owner-operator; (ii) the physical address of each and every laboratory facility of the owner-operator; and (iii) the names and contact information of one (1) or more emergency coordinator(s) for each laboratory facility location. The forms for registration shall require the owner-operator to certify that the laboratory facility is in compliance with Boston Fire Prevention Code 86-1 with respect to the posting of signage for the identification of hazardous materials located within a laboratory and a laboratory facility. The forms for registration shall require the owner-operator to certify that it has adopted an internal set of written policies, practices, and/or procedures to ensure compliance with these sections.

b. The emergency coordinator identified in the registration may be a twenty-four (24) hour per day, seven (7) days per week, three hundred sixty-five (365) days per year operations center of the owner-operator, provided that the operations center has twenty-four (24) hour per day, seven (7) days per week, three hundred sixty-five (365) days per year access to an individual with proficiency and knowledge of the facilities and operations in the laboratory or laboratory facility related to the requirements of these sections.

c. All registration forms shall be completed by the owner-operator of the laboratory or laboratory facility and executed by the owner-operator under the pains and penalties of perjury.

d. The Commissioner may develop and provide a process for an electronic method of registration by owner-operators.

e. For public safety purposes only, the Commissioner shall, on or before July 1 of every calendar year, prepare a database of the information collected pursuant to the registration of laboratories and/or laboratory facilities which shall be accessible by the Boston Fire Department, the Boston Police Department, the Boston Public Health Commission, the Boston Emergency Medical Services, the Boston Emergency Management Agency, and the Inspectional Services Department and which shall be added to the City of Boston Public Safety Computer-Aided Dispatch (CAD) System. The Commissioner shall make a hard copy of this database available to its district stations.

f. As long as they are located within the same building and at the same physical address, an owner-operator may elect to aggregate laboratories into a laboratory facility for purposes of these sections. In no event may a laboratory or a laboratory facility include laboratories or laboratory facilities that are not in the same building and at the same physical address.
(Ord. 2006 c. 4)

11-5C.4 Boston Fire Prevention Code.

Each laboratory and/or laboratory facility shall comply with Boston Fire Prevention Code 86-1, as it may be revised or replaced, with respect to the posting

of signage for the identification of hazardous materials located within the laboratory and/or laboratory facility.

(Ord. 2006 c. 4)

11-5C.5 Emergency Data and Response Plans.

a. The owner-operator of each laboratory and/or laboratory facility shall maintain hard copy or soft copy of information, or the means to immediately obtain the information, at the laboratory or laboratory facility that, in an emergency, shall be immediately available to the owner-operator and to the first responders such as the Boston Fire Department, the Police Department, or Emergency Medical Services, as well as other local, State, regional, or Federal public health or public safety agencies that may be required to respond to an emergency or incident at a laboratory or a laboratory facility and that includes, at a minimum, the following:

1. Floor plans or other means or materials to assist first responders in locating laboratories within a laboratory facility;

2. Name and contact information of at least one (1) emergency coordinator for the laboratory or laboratory facility who is knowledgeable about the nature of the operations and/or the hazards that may be located or who has immediate access to a person who is knowledgeable about the nature of the operations and/or the hazards that may be located in the laboratories located within the laboratory facility;

3. Access cards and/or keys to all laboratories in the laboratory facility; and

4. Any additional information reasonably requested by the Boston Fire Department during its pre-incident planning process with the owner-operator to identify the means by which a first responder may obtain information about special or unique hazardous materials that might be present in specific laboratories, including material safety data sheet access instructions for those materials where an emergency response may require unique protection of person or property.

b. The Commissioner is authorized to augment this list through the promulgation of regulations upon consultation with the technical advisory group appointed pursuant to these sections.
(Ord. 2006 c. 4)

11-5C.6 Inspections.

a. In order to ensure that the public health and the public safety are protected and the City of Boston first responders are protected from the potential hazards that may be posed by laboratories and/or laboratory facilities, on or before the first anniversary of the passage of these sections and subsequent to analysis of the information collected through the registration processes required by these sections, the Commissioner shall implement a program of inspection of laboratories and/or laboratory facilities. At the discretion of the Commissioner, this programmatic inspection may require full physical inspections of the laboratories and/or laboratory facilities or may require only inspection of the laboratories' or laboratory facilities' compliance with the registration requirements, emergency preparedness including but not limited to the information required to be readily available to first responders, and signage.

b. The Commissioner may collaborate and cooperate with the Commissioner of the Inspectional Services Department in developing a program of inspections.

c. If any owner-operator knowingly impedes, inhibits, interferes with, restricts, or obstructs entry and free access to the laboratory and/or the laboratory facility for the purposes delineated in these sections, then the Commissioner and/or the Commissioner of the Inspectional Services Department may seek in a court of competent jurisdiction an inspection warrant that allows for the inspection of the site and appraises said owner-operator concerning the nature of the inspection, the scope of the inspection, the justification for the inspection, and may seek the assistance of the law enforcement community in presenting said warrant.

d. If any person knowingly impedes, inhibits, interferes with, restricts, or obstructs entry and free access to the laboratory and/or the laboratory facility for the purposes delineated in these sections, then the Commissioner or the Commissioner of the Inspectional Services Department may seek in a court of competent jurisdiction an inspection warrant that allows for the inspection of the site and appraises said person or other person concerning the nature of the inspection, the scope of the inspection, the

justification for the inspection, and may seek the assistance of the law enforcement community in presenting said warrant.
(Ord. 2006 c. 4)

11-5C.7 Registration and Inspection Guide.

a. The Commissioner and the Commissioner of the Inspectional Services Department shall prepare for public distribution a guide of not more than two (2) pages which summarizes the registration and inspection requirements. The requirements of this section may be satisfied through the publication or presentation of the guide in a downloadable format on the City's website. Each and every owner-operator shall ensure that a hard copy of this guide is posted at all times in the laboratory facility in a place clearly visible to all persons employed by or working in the laboratory facility. An owner-operator may supplement this posting requirement through electronic distribution or electronic posting of this guide and such methods may substitute for the physical posting only with the approval of the Commissioner and the Commissioner of the Inspectional Services Department.

b. Each and every owner shall annually supply hard copy of the registration and inspection guide to each and every laboratory in each and every laboratory facility owned by the owner.
(Ord. 2006 c. 4)

11-5C.8 Registration Fee.

a. The annual registration fee shall be derived according to total area of the laboratory or laboratory facility submitting the registration as follows:

1. A laboratory or laboratory facility with one (1) square foot to twenty-five thousand (25,000) square feet shall remit five hundred (\$500.00) dollars;

2. A laboratory or laboratory facility with twenty-five thousand and one (25,001) square feet to one hundred thousand (100,000) square feet shall remit six hundred fifty (\$650.00) dollars;

3. A laboratory or laboratory facility with one hundred thousand and one (100,001) square feet to two hundred fifty thousand (250,000) square feet shall remit seven hundred fifty (\$750.00) dollars; and

4. A laboratory or laboratory facility with two hundred fifty thousand and one (250,001) square feet or more shall remit one thousand (\$1,000.00) dollars. In no event, however, shall any single owner-operator pay more than five thousand (\$5,000.00) dollars to register a laboratory, laboratory facility, or number of laboratory facilities pursuant to this section.

b. The fee for registration of a laboratory or a laboratory facility shall be remitted by the owner-operator at the time of registration. The fee is intended to generate enough revenue to ensure that the costs of implementation and continuation of this registration program are wholly covered by the registration fees. (Ord. 2006 c. 4)

11-5C.9 Violations, Penalties, and Enforcement.

a. Violations of these sections specifically include, but are not limited to:

1. The failure to register in accordance with these sections;

2. The failure to maintain a complete emergency data and response plan in accordance with these sections;

3. The failure to post a guide in accordance with these sections;

4. The failure to comply with any other requirement of these sections; and

5. The interference with an inspection.

b. The Commissioner and the Commissioner of the Inspectional Services Department shall have the authority to seek an injunction from a court of competent jurisdiction directing the owner-operator to comply with the requirements of these sections.

c. Each and every violation of CBC 11-5C shall be punishable by a fine of not less than fifty (\$50.00) dollars and not more than three hundred (\$300.00) dollars and these fines shall supplement any other fines promulgated in the General Laws of Massachusetts, the Code of Massachusetts Regulations, and the City of Boston Code of Ordinances. Each and every day that a violation remains shall constitute a separate violation.

d. The provisions of M.G.L. c. 40, s. 21D may be used to enforce these sections.

e. The Commissioner and the Commissioner of the Inspectional Services Department shall have the authority to delegate enforcement of these sections to any City department authorized to enforce public safety, public health, or environmental rules, regulations, ordinances, and/or statutes.

f. Nothing in these sections shall prohibit the Commissioner or the Commissioner of the Inspectional Services Department from issuing written warnings to an owner-operator or any other person or entity. For the purposes of CBC 11-5C, the Commissioner and the Commissioner of Inspectional Services Department may not issue more than two (2) warnings for the same violation in a laboratory and/or laboratory facility to any owner-operator, person, or entity.

g. The Commissioner and the Commissioner of Inspectional Services Department may commence an action in the Courts of the Commonwealth of Massachusetts for violations that remain uncorrected for more than thirty (30) calendar days and for fines that remain unpaid for more than sixty (60) calendar days. (Ord. 2006 c. 4)

11-5C.10 Technical Advisory Committee.

The Commissioner shall appoint twelve (12) people to a Technical Advisory Committee (TAC) that shall be composed of six (6) representatives of the research laboratory community and six (6) public officials. The TAC shall meet at least twice annually to promote the understanding of hazards and mitigation measures in the laboratory environment, to exchange best practices in laboratory operations, to promote consistent application of the requirements of these sections, and to devise the parameters and execution of the programmatic inspections anticipated by these sections. (Ord. 2006 c. 4)

11-5C.11 Regulatory Authority.

The Commissioner and the Commissioner of the Inspectional Services Department shall have the authority to promulgate rules and regulations

necessary to implement and enforce these sections and shall consult with the Technical Advisory Committee appointed pursuant to these sections.
(Ord. 2006 c. 4)

11-5C.12 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2006 c. 4)

11-5C.13 Implementation.

a. The Commissioner and the Commissioner of Inspectional Services shall prepare and promulgate the documents and forms required by these sections within ninety (90) calendar days of passage.

b. Each and every owner-operator shall submit the registration materials required by these sections within ninety (90) calendar days of promulgation of documents and forms by the Commissioner and the Commissioner of Inspectional Services.
(Ord. 2006 c. 4)

11-6 PUBLIC WORKS DEPARTMENT.

11-6.1 Powers and Duties of Commissioner.

a. There shall be in the City a Department, known as the Public Works Department, which shall be under the charge of an officer known as the Commissioner of Public Works, who shall be appointed by the Mayor for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected and who may be removed by the Mayor with or without cause.

b. The Commissioner shall construct all streets; shall have the discretionary power as to the grades, materials and other particulars of construction of streets and sidewalks; shall have charge of and keep clean and in good condition and repair the streets, including the portions of

Commonwealth Avenue previously under the control of the Parks and Recreation Commission; shall remove and dispose of, at the expense of the Public Works Department, all refuse and recycling from buildings occupied by the City except those under the control of the School Committee, shall remove and dispose of the acceptable refuse and recycling from privately owned properties, including, but not limited to, homes, condominiums and apartment buildings and shall promulgate rules and regulations consistent with and/or in compliance with all applicable state regulations to govern such removal. The Commissioner shall not be required to take any refuse or recycling from any commercial, non-profit, educational, business, retail or manufacturing establishments, or any refuse or recycling not generated within the City of Boston.

(Ord. October 7, 1833; Ord. 1908 c. 3; Ord. 1910 c. 9; Ord. 1954 c. 2 § 45; Ord. 1955 c. 3; Ord. 1956 c. 8; Ord. 1959 c. 7 § 1; Rev. Ord. 1961 c. 21 § 1; CBC 1975 Ord. T11 § 150; Ord. 2010 c. 6)

Cross-reference:

Ord. ss 6-1.4; Ord. ss 7-4.2; Statutes, Title 15 Chapter 1

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.2 Deputy Commissioner.

The Commissioner may, from time to time, by a writing approved by the Mayor and deposited with the City Auditor, designate, for such period as may be specified therein, one of his division engineers to be Deputy Commissioner. The Deputy Commissioner shall have authority, by virtue of such designation, to approve and sign bills, drafts, pay rolls, and requisitions, and to perform such other routine duties as the Commissioner may require, but shall not have authority to make any permanent appointments nor to make contracts, except in the absence of the Commissioner, and then only under a separate authorization under Subsection 5-5.29.

(Rev. Ord. 1961 c. 21 § 2; CBC 1975 Ord. T11 § 151)

Cross-reference:

Ord. ss 5-5.29

11-6.3 Use of Public Ways.

The Commissioner shall have the jurisdiction vested by statute in the Board of Street Commissioners in relation to the planting and removal of trees in the public ways and to the use of public ways for any temporary obstruction or projection in, under or over the same; but such jurisdiction shall only be exercised with the written approval of the Mayor in each instance. The Commissioner shall also have the powers and perform the duties conferred or imposed by statute on the Board of Street Commissioners in relation to the use of parts of public ways for the storage and sale of merchandise. When establishing rules or regulations for the dates of temporary license periods for the use of public space for sidewalk cafes, the Commissioner shall make licenses available year-round. However, nothing herein shall be construed to prevent the Commissioner from imposing additional requirements on year-round licenses.

(Ord. 1954 c. 2 § 46; Rev. Ord. 1961 c. 21 § 3; CBC 1975 Ord. T11 § 152; Ord. 2009 c. 3)

11-6.4 Street Lighting.

The Commissioner shall have charge of all lamps established by the City Council and maintained at the expense of the City, of all lamps set up in parks, parkways or public grounds, and of all lamp-posts, posts or fixtures connected with such lamps, and shall set up and affix lamps in the streets; shall have the care and custody of all City property used or hereafter

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acquired for the purpose of street lighting, and shall maintain and keep the same in good repair.

(Rev. Ord. 1961 c. 21 § 4; CBC 1975 Ord. T11 § 153)

Cross-reference:

Ord. ss 7-4.7

11-6.5 Bridges.

The Commissioner shall have the care and management of all bridges which are used as highways, and are in whole or in part under the charge of the City; shall keep the railings and wearing surface in good order and shall remove all dirt, snow and ice from the sidewalks; shall keep all said bridges, or those parts thereof under his care, and the abutments, guards, draws and wharves thereof, clean and in good condition and repair; shall appoint drawtenders for the draws in bridges of which he has the care, and see that they properly perform their duties, and may remove them for such cause as he shall deem sufficient and shall assign in his order of removal. Each drawtender so appointed shall take charge by night and by day of the draw of which he is drawtender; shall require from the person in charge of a vessel applying to pass through the draw a true statement of the name, extreme width and draught of the vessel; shall determine the order in which vessels may pass through the draw; and may direct the placing of warping-lines, anchors, and cables, and the use of any warping apparatus provided by the City; shall cause the draw to be opened for the passage of vessels in accordance with the regulations of the Department of the Army; shall cause the draw to be closed with all possible expedition after a vessel has passed through, not permitting more than one vessel to pass through at one opening of the draw, except that, when the draw is open and the bridge is free from persons desiring to cross, he may, in his discretion, permit other vessels to pass through before causing the draw to be closed; and shall perform such additional duties as said Commissioner may require.

(Rev. Ord. 1961 c. 21 § 5; CBC 1975 Ord. T11 § 154)

Cross-reference:

Statutes, Title 11 § 30

11-6.6 Record of Sewer Construction.

The Commissioner shall keep a book in which he shall record the date of every order for

constructing a sewer, the name of the contractor or builder constructing it, the date of commencing and the date of completing the work, and the cost of the sewer. He shall make and deliver to the Collector-Treasurer all bills for assessments as they become due.

(Rev. Ord. 1961 c. 21 § 6; CBC 1975 Ord. T11 § 155)

Cross-reference:

Ord. ss 6-3.5

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.7 Sewer Plans.

The Commissioner shall keep a plan for every existing and every new sewer, showing its depth, breadth, mode of construction and general direction, and shall, from time to time, ascertain and insert on such plans all entries made into the sewers.

(Rev. Ord. 1961 c. 21 § 7; CBC 1975 Ord. T11 § 156)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.8 Notice of Sewer and Street Work.

The Commissioner shall, when about to build a new sewer or repair an old sewer, notify all abutters on that part of the line of said sewer when he proposes to do work, and afford them facilities for entering the sewer; and shall, when about to construct a new street, at least four (4) weeks before beginning work, and, when about to make a new surface of any street, at least two (2) weeks before beginning work, notify all departments and persons authorized to place any structure in such street, and require and see that all departments and persons having any work to be done in the streets so designated shall do all such work before the surface of such street is again prepared for and opened to public travel; and, after the completion of the work then done on such street, shall not, for

one year thereafter, permit any department or person to disturb the surface of such street or way within the area of such previous disturbance, except in case of obvious necessity; and shall make a record of the permits issued in such cases in a book to be kept for that purpose.

(Rev. Ord. 1961 c. 21 § 8; CBC 1975 Ord. T11 § 157)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

**11-6.9 Permits for Street Work;
Conditions Thereof.**

The Commissioner may issue permits to persons having authority in the premises to open, occupy, obstruct and use portions of the streets. Such permits shall specify the time, place, size and use of such opening, occupation, or obstruction, and shall be granted upon condition the terms of which shall be those stated in Subsection 5-5.30 of these ordinances, and upon the further conditions as follows:

a. That the restoration of the paving or other surface of such streets shall be effected by the City as directed by the Commissioner, the work to be done by City employees or by contract or otherwise at his discretion, the standard, type and extent of the repairs necessary to effect such restoration to be determined by him and to be paid for by the person receiving the permit, such payment to be made in advance on the basis of the Commissioner's estimate or during the progress or after the completion of the restoration as the Commissioner may elect.

b. That the person receiving the permit shall place and maintain from the beginning of twilight, through the whole of every night, over or near the place so occupied, opened, obstructed or used, and over or near any dirt, gravel or other material placed in or near such place, a light or lights sufficient to protect travelers from injury; shall place and maintain a safe and convenient way, satisfactory to the Commissioner, for the use of foot travelers and for vehicles around or over such place; shall protect such trees as shall be designated by the Parks and

Recreation Department in such manner as said Department shall specify; shall provide suitable sanitary accommodations for his employees; and shall deliver the coupon attached to the permit to an officer of the Police Force of said City on or before the expiration of the time fixed in the permit for completing the work, such coupon to be returned by said officer to the Public Works Department.

c. That the Commissioner may detail an inspector, at the expense of the person receiving the permit, to supervise said opening, occupation and use and to see that the backfilling is properly done.

d. That the Commissioner may require the person receiving the permit to enclose the place in the streets so opened, occupied or used, with a rail, fence or other guard as specified by the Commissioner.

e. That the Commissioner shall require the person receiving the permit to maintain at the expense of such person as many Boston Police Officers on special duty (outside their regular tour of duty), as the Police Commissioner may determine necessary to protect the safety and general welfare of the public and to preserve the free circulation of traffic (but in no event less than one (1) Boston Police Officer). This clause shall not prohibit reimbursement of such person for such expense if a contract between such person and the City or any other person provides such reimbursement. It shall be the duty of the Public Works Commissioner to ascertain compliance of this section prior to issuance of the permit.

f. The Commissioner shall require the person receiving the permit to maintain at the expense of such person an accessible path of travel which meets both Americans with Disabilities Act and Massachusetts Architectural Access Board requirements.

g. The Commissioner shall require that the person receiving the permit ensures that all construction be in compliance with the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Board.

If any person having the authority in the premises to open, occupy, obstruct and use portions of the streets is exempt from obtaining a permit by the Commissioner, said person shall remain subject to subsections f. and g.

Any violation of the above ordinance shall be punished by a fine of fifty (\$50.00) dollars.

(Ord. 1966 c. 5; Ord. 1967 c. 4; Rev. Ord. 1961 (Sup. 1971) c. 21 § 9; CBC 1975 Ord. T11 § 158; Ord. 1976 c. 4; Ord. 1977 c. 6, c. 14; Ord. 2008 c. 11)

Cross-reference:

St. T.4 c. 1; Ord. ss 7-1.3; ss 7-4.7

11-6.10 Permits to Enter Drains.

The Commissioner may issue such a permit to competent mechanics for the purpose of entering particular drains into public drains and sewers, on condition the terms of which shall be those stated in Subsection 11-6.9, and in addition that the person

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applying for the permit shall make connection of such drain with such sewer only in the manner shown on the back of the permit, and only in the presence of an inspector of the Sewer Division; shall have on the ground, when the inspector arrives to see the connection made, any slant, bend or curve to be used in making the connection; shall not cover up any work until inspected by one of such inspectors; shall not lay the drain in the same trench with a water pipe; shall not connect any exhaust from a steam engine, any blow-off from a steam boiler, or any other pipe for delivering steam or hot water, with the drain or sewer. The Commissioner shall in each drain permit specify the size, material and mode of construction of the particular drain, and the direction and grade for laying it.

(Ord. 1960 c. 4 § 2; Rev. Ord. 1961 c. 21 § 10; CBC 1975 Ord. T11 § 159)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.11 Permits to Obstruct Sidewalks.

The Commissioner may issue such a permit to a responsible person for the purpose of raising and lowering goods and merchandise into and from buildings, on condition the terms of which shall be those stated in Subsection 5-5.28, and in addition that the person applying for the permit shall maintain, during the whole time the work is in progress, good and sufficient barriers across the sidewalk, from the wall of the building to or from which the goods or merchandise are so raised out to the curbstone or edge of the sidewalk, on each side of said goods or merchandise, sufficient to protect travelers from injury or danger; and shall not encumber the sidewalk for more than fifteen (15) minutes at a time for such work.

(Rev. Ord. 1961 c. 21 § 11; CBC 1975 Ord. T11 § 160)

Cross-reference:

Ord. ss 5-5.28

11-6.12 Permits for Coal Holes.

The Commissioner shall issue such a permit to any person authorized by the Public Improvement Commission to place a coal hole, vault or coal slide under a street, or a cover thereto, on condition the terms of which shall be those stated in Subsection 11-6.9, and in addition that the person applying for the permit shall make the underground structure of suitable construction satisfactory to the Commissioner, and shall pay such fee as may be prescribed by ordinance; shall make the opening of a coal hole or coal slide circular, and not more than eighteen (18") inches in diameter, and furnish a cover therefor of iron, made with a rough upper surface, and with three (3) or more iron rods or legs at least two (2') feet in length, fitting closely to the side of the opening, and projecting downwards from the underside of the cover, and so constructed that, while the cover can be lifted perpendicularly, it cannot be tipped or easily removed from the opening.

(Reg. Bd. of Ald. October 19, 1863; Rev. Ord. 1890 c. 18 § 8; Ord. 1954 c. 2 § 49; Rev. Ord. 1961 c. 21 § 12; CBC 1975 Ord. T11 § 161)

Cross-reference:

Ord. ss 8-7.1

11-6.13 Permits to Move Buildings.

The Commissioner shall issue such a permit to a building mover actually engaged in the business, for the purpose of moving a building through the streets, on condition the terms of which shall be those stated in Subsection 11-6.9; provided, that an application for such permit, describing the location from and to which, and the route over which, the building is to be moved, the length, width and height of the building, and the principal material of its exterior and roof, and accompanied by the written consent of the Building Commissioner to the placing of the building on the lot proposed, shall be first made to the Commissioner. Whenever it appears that the moving of a building will encumber the tracks of any railroad corporation, a public hearing shall be given by the Commissioner upon the subject before such permit is issued.

(Ord. 1954 c. 2 § 50; Rev. Ord. 1961 c. 21 § 13; CBC 1975 Ord. T11 § 162)

11-6.14 Permits for Laying Wires, Rails, Pipes and Conduits.

The Commissioner shall, when authorized thereto by an order of the Public Improvement Commission, issue such a permit to a responsible person for the purpose of laying, maintaining and using wires, railway tracks or rails in the streets, or wires, pipes or conduits under the surface thereof, on condition the terms of which shall be those stated in Subsection 11-6.9, and in addition that the person applying for the permit shall, whenever requested so to do by the Mayor, furnish in his conduits for wires accommodations free of charge for all wires belonging to, or to be used by, the City; shall remove the conduits and wires whenever directed, and not until directed, so to do by an order of the public improvement commission approved by the Mayor; and shall not disturb or interfere with any wires, pipes, or sewers lawfully laid in such street or connected therewith.

(Ord. 1954 c. 2 § 51; Rev. Ord. 1961 c. 21 § 14; CBC 1975 Ord. T11 § 163)

Cross-reference:

Statutes, Title 8 § 500

11-6.15 Permits for Poles.

The Commissioner shall, when authorized thereto by an order of the Public Improvement Commission, issue such a permit to a responsible person for the purpose of placing and maintaining in the streets poles for the support of wires, on condition the terms of which shall be those stated in Subsection 11-6.9, and in addition that the person applying for the permit shall keep the poles well painted and in good condition, to the satisfaction of the Commissioner; shall place the wires on the poles not less than twenty-one feet from the ground; shall keep the name of the person owning the pole distinctly painted on the crossbars used and occupied by him on the pole, and also on the pole at a point not less than six (6') feet nor more than eight (8') feet from the ground; shall allow the Departments of the City the exclusive use of the lowest crossbar of each pole, free of all charge, for the purpose of placing wires thereon; shall not suffer or permit any other person to place or keep wires on the poles, or upon the fixtures thereto affixed, without permission being first obtained in writing from the Public Improvement Commission; shall not remove any pole erected under the order until, and shall remove any pole when, directed by the Public Improvement Commission so to do; and that on the violation of any term of

these conditions the Commissioner shall remove the poles at the expense of the person owning them.

(Ord. 1954 c. 2 § 51; Rev. Ord. 1961 c. 21 § 15; CBC 1975 Ord. T11 § 164)

11-6.16 Bonds Required Before Delivery of Permits.

The Commissioner shall not deliver any such permit to any person for the applicant therefor until he has received from such person a certificate that a copy of the permit entered in a book kept for the purpose, is a correct copy of the permit he receives, and the applicant, unless an employee of the City applying for a permit for public work, has given a bond in the case of permits under Subsections 11-6.9, 11-6.10, 11-6.11, 11-6.12, and 11-6.13, of five thousand (\$5,000.00) dollars, and under Subsections 11-6.14 and 11-6.15, of twenty thousand (\$20,000.00) dollars, each bond, with one or more sureties satisfactory to the Commissioner, conditioned upon the faithful observance of the conditions and specifications of each and every permit thereafter issued on his application by the Commissioner; and the Commissioner may at any time require a new bond, which shall be considered a strengthening bond, unless the sureties on the former bond or bonds are expressly released from their liability by vote of the City Council. No bond shall be required of any person to open a public street for the purpose of planting a tree therein if such person has been duly authorized by the proper municipal authorities to plant trees in such street. No bond shall be required of any person to occupy a street for the purpose of standing a moving truck at curb while loading and unloading contents of a residence or a business as defined by City of Boston Code, Ordinances, Chapter XVIII, subsection 18-1.16, paragraph 8A.

(Rev. Ord. 1961 c. 21 § 16; Ord. 1964 c. 2; Rev. Ord. 1961 (Sup. 1971) c. 21 § 16; CBC 1975 Ord. T11 § 165; Ord. 2011 c. 4)

Cross-reference:

Ord. ss 6-3.4; Ord. ss 7-4.8

11-6.17 Permits Prohibited.

The Commissioner shall not issue any such permit to a person who has within twelve (12) months previous to his application violated or failed to observe the conditions or specifications of any such permit.

(Rev. Ord. 1961 c. 21 § 17; CBC 1975 Ord. T11 § 166)

11-6.18 Indemnity for City.

Every owner of an estate hereafter maintaining any cellar, vault, coal hole or other excavation under the part of the street which is adjacent to, or part of, his estate, shall do so only on condition that such maintenance shall be considered as an agreement on his part to hold the City harmless from any claims for damage to himself or the occupants of such estate resulting from gas, sewage or water leaking into such excavation or upon such estate; and every such owner and every person maintaining a post, pole or other structure in a street, or a wire, pipe, conduit or other structure under a street, shall do so only on condition that such maintenance shall be considered as an agreement on his part with the City to keep the same and the covers thereof in good repair and condition at all times during his ownership and to indemnify and save harmless the City against any and all damages, costs, expenses or compensation which it may sustain or be required to pay, by reason of such excavation or structure being under or in the street, or being out of repair during his ownership, or by reason of any cover of the same being out of repair or unfastened during his ownership.

(304 Mass. 18; Reg. Bd. of Ald. October 19, 1863; Rev. Ord. 1890 c. 18 § 12; Rev. Ord. 1961 c. 21 § 18; CBC 1975 Ord. T11 § 167)

11-6.19 Appurtenant Structures in the Public Way.

The term "Appurtenant structures in the public way" shall include, but not be limited to, poles, hydrants, surface access to gates, valves and meters, manhole frames, pullbox frames, catch basin inlet frames, signs, shelters and any structural supports approved by the Public Improvement Commission. (Ord. 1983 c. 2)

11-6.20 Responsibility for Condition and Maintenance of Pavement.

Any person, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate who occupies the public or private ways of the City of Boston with proper permit from the Public Works Department or otherwise, as a condition of such occupation, shall be responsible and liable for the maintenance and

restoration of all pavement within thirty (30") inches of any and all of the appurtenant structures where they intersect the surface of the public way, roadway or sidewalk, and shall maintain said areas and repair any defect in its entirety which lies wholly or in part in the said area. Defects shall include, but not be limited to: pot holes, chuckholes, frost heaves, cracking, spalling, settling, delaminating or patch repair. Repairs and restorations made by the above-mentioned parties shall be made in accordance with the specifications of, and under permit from the Boston Public Works Department, and at no cost to the City. (Ord. 1983 c. 2)

11-6.21 Indemnity for City: Pavement Defects.

Each person, corporation, trust, partnership, governmental board, commission, authority, agency or body politic and corporate, occupying the public or private way, as a condition of such occupation, shall forever indemnify and save harmless the City of Boston against all claims and demands of all persons for damages, costs, expenses or compensation for, on account of, or in any way growing out of, or the result of any surface defect occurring wholly or in part within the area described in Subsection 11-6.20.

When the City of Boston constructs or reconstructs the pavement adjacent to any of the above-mentioned structures, such action shall not abrogate the responsibility of the above-mentioned parties. (Ord. 1983 c. 2)

11-6.22 Temporary Repairs on Private Ways.

a. *Petition for Temporary Repair.* Under the authority of Chapter 693, of 1977, appearing as General Laws, Chapter 40, Section 6N, the City of Boston shall, when necessity dictates, cause temporary repairs to be made on private ways which have been opened to public use for six (6) years or more. Upon the filing of a petition signed by owners of fifty (50%) percent or more of the property parcels abutting a private way, the Commission of Public Works or qualified designee shall inspect and determine what temporary relief measures may be taken to fill depressions to make the roadway satisfactory for vehicular use.

b. *City to Assume Cost of Temporary Repairs.* Temporary repairs shall be at City expense, but only include the filling of holes and depressions with sand, gravel, cinders, or other suitable materials and shall not include the resurfacing or permanent construction of private ways.

c. *Cost of Resurfacing or Permanent Patching.* At the request of owners of a majority of property lots abutting a private way, the Public Works Commissioner or designee may arrange for resurfacing or permanent patching of depressions in an existing paved way on a shared cost basis. The extent of such work shall be agreed to in advance by owners, who collectively will be assessed half the costs of such work.

d. *Apportionment of Charges of Permanent Repair.* Betterments or charges will be apportioned on the ratio of frontage owned on such private way. Taxpaying owners may pay cost in cash or have them assessed as betterments over a period of years. Tax-exempt properties will be charged for their respective share of work. The Public Works Commissioner shall supervise such work and may require that present or potential drainage problems be resolved as part of the undertaking.
(Ord. 1979 c. 10, §§ 1-3)

11-6.23 Responsibility for Area Surrounding Tracks and Rails.

All persons, corporations, trusts, partnerships, governmental bodies, boards, commissions, authorities, agencies or bodies politic and corporate who occupy the public way with tracks or rails for any purpose, as a condition of such occupation, shall be responsible and liable for the maintenance and restoration of all pavement within twenty-four (24") inches of outside rails, within the limits of the tracks itself and the area between two (2) sets of tracks where two (2) sets of tracks exist together. The above-mentioned parties shall maintain said areas and repair any defect in its entirety which lies wholly or in part in the said area. Defects shall include, but not be limited to: pot holes, chuckholes, frost heaves, cracking, spalling, settling, delaminating or patch repair. Repairs shall be made according to the specifications of the Public Works Department, City of Boston and at no cost to said City.
(Ord. 1983 c. 2)

11-6.24 Indemnity for City; Tracks and Rails.

The above-mentioned parties, as a condition of such occupation, shall forever indemnify and save harmless the City of Boston against all claims and demands of all persons for damages, costs, expenses or compensation for, on account of or in any way growing out of, or as the result of any surface defect occurring wholly or in part within the area described in Subsection 11-6.23.

When the City of Boston, constructs or reconstructs, repairs or repaves the above-mentioned pavement, this action shall not abrogate the responsibility of the above-mentioned parties.
(Ord. 1983 c. 2)

11-6.25 Capital Improvement.

The above-mentioned parties are required to cooperate with any capital improvement desired by the City of Boston in that they must repave or reconstruct the above-mentioned areas, to Public Works Department standards, to insure the overall continuity of the project.
(Ord. 1983 c. 2)

11-6.26 Guards for Steps and Entrances.

The Commissioner shall require every person who maintains an entrance on a level with or below, or a flight of steps descending immediately from or near, the line of the street, which is not otherwise safely guarded to the satisfaction of the Commissioner, to enclose such entrance or steps with a permanent iron railing on each side at least three (3') feet high from the top of the sidewalk or pavement, and to provide the same with a gate opening inwardly, or with two (2) iron chains across the entrance way, one near the top and the other half way from the ground to the top of the railing, and to keep such gates or chains closed during the night, unless the entrance or steps are sufficiently lighted to prevent accident.
(Rev. Ord. 1961 c. 21 § 19; CBC 1975 Ord. T11 § 168)

11-6.27 Excavations Under Sidewalk.

The Commissioner shall close and fill up, at the expense of the owner of the premises abutting on a

sidewalk, any excavation under such sidewalk, whether constructed under a permit or not, which has not been closed and filled up within five (5) days after the Public Improvement Commission has ordered the owner so to do.

(Ord. 1954 c. 2 § 52; Rev. Ord. 1961 c. 21 § 20; CBC 1975 Ord. T11 § 169)

Cross-reference:

Ord. ss 8-7.1; Statutes, Title 14 § 155

11-6.28 Record of Notices of Defects.

The Commissioner shall keep a record of the notices of defects in streets sent to him, with the name of the person giving the notice and the time when given, and shall without delay cause the locality of the alleged defect to be examined, and, if the defect is of such a character as to endanger the safety of public travel, shall do whatever may be necessary to protect the public from injury by the defect, and shall cause it to be immediately repaired.

(Rev. Ord. 1961 c. 21 § 21; CBC 1975 Ord. T11 § 170)

11-6.29 Water Supply.

The Commissioner shall have the care and control of all property acquired or held by the City for the purposes of its water supply; shall maintain the same in good order and condition; shall use and operate the same and furnish all supplies required therefor; shall purchase, lay, maintain and test all meters, pipes and other fixtures and appliances necessary for supplying water to the inhabitants of the City, including the placing of drinking fountains and supplying the same with cold water; shall take all measures necessary to protect and preserve the purity of the water; shall exercise a constant supervision over the use of water; shall have control of the water supply and may in a public emergency shut the water off and let it on at such times as he deems necessary; shall, with the approval of the Mayor, from time to time determine and establish the rates for the use of water; shall, whenever a water rate has remained unpaid for thirty (30) days after its due date, send notice to the owner or tenant of the premises to which the water is supplied, that the water rate has become a lien on the premises and that if the water rate continues to remain unpaid, the water will be shut off; shall, if a water rate is not paid within ten (10) days

after sending the notice herein provided for, shut off the water from the particular service unless such action is inconsistent with law or unless, in the opinion of a physician designated by the Commissioner, the shutting off of such water would endanger the life of any person; shall not let on again water shut off for nonpayment of a water rate until a service charge of two (\$2.00) dollars, in addition to the amount of the unpaid account, is paid except where the law requires the letting on again of the water without the payment of the unpaid account. However, the Commissioner may, in his discretion, waive the payment of such two (\$2.00) dollar service charge where the unpaid account is less than twenty (\$20.00) dollars. The provisions relative to the shutting off and letting on of water shall apply when two (2) or more persons take water from the same service pipe although one or more may have been paid the amount due from him or them. No charge shall be made for sending the notice herein provided for.

(Ord. 1941 c. 6; Rev. Ord. 1961 c. 21 § 22; CBC 1975 Ord. T11 § 171)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.30 Water Bills.

The Commissioner shall, consistently with the ordinances, make contracts for the sale of water, and send out bills therefor, which shall be payable to the Collector-Treasurer; shall provide that bills for specific supplies of water shall be due and payable in advance and actually paid before the water is let on, that bills for water furnished and measured by meter shall not be less than eight (\$8.00) dollars during any consecutive twelve (12) months' period and shall be due and payable on the due date specified on each bill rendered, and that the due dates thus specified shall be so established as to require payments at least as often as semiannually. All contracts shall stipulate that an omission to send or a failure to receive a water bill under this section or a notice under the preceding section shall not affect the validity either of the water

rate or of the proceedings for its enforcement or collection.

(Ord. 1954 c. 2 § 53; Rev. Ord. 1961 c. 21 § 23; CBC 1975 Ord. T11 § 172)

Cross-reference:

Statutes, Title 4 § 1; Ord. ss 6-3.5

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.31 Water Income.

The Commissioner may designate one of his subordinates to be the head of the Water Division, who shall, if the Commissioner so directs, make abatements of charges for water where improperly assessed and exercise the powers of the Commissioner relative to the shutting off of water for nonpayment of a water rate and the waiver of the service charge for the shutting off and letting on of water; who shall also receive all money paid for service charges for the shutting off and letting on of water and all money paid or deposited on account of main, service, fire, elevator, motor and other pipes and the laying thereof and for repair work; shall give a receipt in behalf of the City therefor; shall pay, from the money so received, the amount found by him to be due the person paying any such money, as excess over the amount due the City; and shall, on or before the fifth day of every month, pay over the money in his possession due the City, and account for all money so received by him since the last accounting, as provided in Subsection 5-5.24.

(Ord. 1930 c. 6; Rev. Ord. 1961 c. 21 § 24; CBC 1975 Ord. T11 § 173)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.32 Water Meters.

The Commissioner shall, from time to time, as he deems necessary, apply, remove and test water

meters and maintain the same in good condition; shall record, in a book kept for the purpose, a statement of the style, size, number of each meter, date when purchased, location, date when set, reading at such date, date when taken out, the reason therefor, the reading at such date, a detailed statement of test and percentage of errors shown, and the reading and date when reset; also a description of all defects and repairs of such meters.

(Rev. Ord. 1961 c. 21 § 25; CBC 1975 Ord. T11 § 174)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.33 Shutting Off Water.

The Commissioner, whenever the water has been shut off from any premises because the bill for water has not been paid and there is a change in the ownership of the premises, may let the water on again without waiting for the payment of the amount due from the former owner. In case of contracts for specific supplies he shall shut off the water as soon as the contract has been carried out.

(Rev. Ord. 1961 c. 21 § 26; CBC 1975 Ord. T11 § 175)

Cross-reference:

Statutes, Title 4 § 1

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.34 Record of Water Takers.

The Commissioner shall keep suitable books, in which shall be entered the names of all persons who take water, the kind of building in which it is taken, the name of the street and the number thereon, the

nature of the use, the number of taps, and the rate assessed.

(Rev. Ord. 1961 c. 21 § 27; CBC 1975 Ord. T11 § 176)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.35 Regulations for Water Takers.

The Commissioner shall cause the following regulations to be printed on every bill for water, which regulations shall constitute a part of the contract with every taker of water furnished by the City:

a. Regulations.

1. Every water taker shall pay the rates for water furnished on his application within the time and at the place specified in the bills therefor; shall, at his own expense, keep the service pipes within his premises, including any area or vault beneath the sidewalk, in good order and repair and protected from frost; shall not allow the water to leak away or run to waste; shall not - unless he pays the rates established therefor or takes water by meter rates - use water from a hose; shall not use water from a hose in any case, except during such days and hours and in such manner as the Commissioner of Public Works may from time to time specify; shall not make any changes in the pipes or water fixtures under the street or within his premises, unless such change is approved by the Commissioner; shall not conceal the purpose for which the water is used; shall allow the Commissioner and persons authorized by him to enter the premises supplied with water, examine the fixtures, and ascertain the quantity of water used, the manner of use, and whether there is unnecessary waste; and shall indemnify the city for all damages it may sustain or be required to pay in consequence of any injury resulting from any violation of these regulations by the water taker.

2. Every water taker must stop the use of water for any purpose when required to do so by the Commissioner of Public Works and must guard

against collapse of a boiler and other injuries liable to result from want of water, as the water is liable to be shut off at any time without notice.

3. No water taker shall, except in accordance with a written permit from the Commissioner of Public Works or in case of fire in the neighborhood, allow water to be taken from his premises, or use water for any purpose other than those for which he pays, or open any hydrant attached to the water pipes of the City.

4. No water taker shall demand or be entitled to any abatement of his water rates for any year on account of the premises being vacated, unless they are vacated before the first day of January and notice thereof is given to the Commissioner of Public Works before the first day of February of such year; nor shall any water taker demand or be entitled to any abatement of rates, compensation, or damage on account of the shutting off, or the stopping of the use, of water for any cause.

5. The Commissioner of Public Works shall equip with water meters all new services installed; shall, if a water taker refuses to allow a water meter to be placed on his premises, cause the water to be shut off from the same; may without notice, cause the water to be shut off from any premises or require the use of water for any purpose designated by him to be stopped; and may, if any water taker, whether supplied through an independent service pipe or a service pipe used in common with another, violates any of these regulations, cause the water to be shut off from all premises supplied by such pipe until satisfied that the regulations will be observed and that all amounts due for water have been paid to the Collector-Treasurer, together with such further sum,

not exceeding ten (\$10.00) dollars, as the Collector-Treasurer may require. (St. 1907 c. 524; St. 1909 c. 177; Ord. 1954 c. 2 § 54; Rev. Ord. 1961 c. 21 § 28; CBC 1975 Ord. T11 § 177)

Cross-reference:

Statutes, Title 4 § 1; Ord. ss 6-3.5; Statutes, Title 14 § 172

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

11-6.36 Engineering Work.

Except as otherwise provided by statute, the Commissioner of Public Works shall have full charge of all engineering work of every nature and description connected with all public works and all public improvements, and shall make such surveys, plans, estimates, statements and descriptions, and take such levels, as any officer of the city may need in the discharge of his duties, and shall have the custody of all surveys and plans relating to the laying out, relocating, altering, widening, constructing, making specific repairs on, and discontinuing public ways and alleys.

(Ord. 1954 c. 2 § 55; Rev. Ord. 1961 c. 21 § 29; CBC 1975 Ord. T11 § 178)

11-6.37 Inspection and Measurement of Public Work.

The Commissioner shall, by himself or by his duly authorized agents, inspect and measure all public work done under his direction by any Department by contract or otherwise, and the City Auditor, in case any bill or estimate for such work is presented to him for allowance, may require from the Commissioner a certificate for such bill or estimate stating whether the materials have been furnished or the work done in accordance with proper engineering standards or in accordance with the terms of the contract for such work.

(Rev. Ord. 1961 c. 21 § 30; CBC 1975 Ord. T11 § 179)

Cross-reference:

Statutes, Title 4 § 1; Ord. ss 6-1.4

11-6.38 Discontinuance of Public Work.

The Commissioner shall have authority to order any public work, whether done by a Department or under contract or otherwise, to be discontinued, reconstructed or removed, whenever in his opinion such work fails in any manner to comply with or fulfill the terms, conditions, specifications and requirements of any such contract or agreement, or fails in his opinion to conform with proper engineering standards. (Rev. Ord. 1961 c. 21 § 31; CBC 1975 Ord. T11 § 180)

Cross-reference:

Statutes, Title 4 § 1

11-6.39 Charge Against Appropriations.

Any expense incurred by the Commissioner in carrying out any of the provisions of this section, except as provided for by the appropriation for the Department of Public Works, shall be charged to the several appropriations under which the works are authorized or paid for, upon requisition of the Commissioner.

(Rev. Ord. 1961 c. 21 § 32; CBC 1975 Ord. T11 § 181)

11-6.40 Division of Engineers; Qualifications.

The Commissioner shall divide the Public Works Department from time to time into an Engineering Division and such other Divisions as the Commissioner shall adjudge necessary for the proper conduct of the Department. Each division shall be in charge of a civil engineer of recognized standing in his profession, who shall be an expert in the duties which may devolve upon him, and shall devote his whole time to the work.

(Ord. 1954 c. 2 § 56; Ord. 1960 c. 7; Rev. Ord. 1961 c. 21 § 33; CBC 1975 T11 § 182)

11-6.41 Certificate of Qualifications of Engineers.

In appointing an engineer to take charge of a Division of the Department the Commissioner shall certify that he is a civil engineer of recognized standing in the profession, that in the Commissioner's opinion he is an expert in the work which shall devolve upon him, that he is a person specially fitted

by education, training or experience to perform the duties which may devolve upon him, and that the appointment is made solely in the interest of the City, such certificate to be filed with the City Clerk and to be open to public inspection.

(Rev. Ord. 1961 c. 21 § 34; CBC 1975 Ord. T11 § 183)

11-6.42 Annual Report.

The Commissioner shall, in his annual report, include a statement of the repairs and expenditures on each street and each bridge under his charge, of the number of times each draw of a bridge has been operated for the passage of vessels, of the number of vessels laden with cargo that have passed through each draw, of the number of water takers and the purposes for which the water is taken, of the number and kind of water meters installed during the previous year, of the number and kind of water meters in use, of the number of cases where the water has been shut off, and of the number and amount of abatements which have been made during the preceding year on water rates.

(Ord. 1954 c. 2 § 57; Rev. Ord. 1961 c. 21 § 35; CBC 1975 Ord. T11 § 184)

11-6.43 Vehicles Interfering With the Removal of Snow.

For the purpose of plowing or removing snow from a street the Commissioner of Public Works or such subordinate or subordinates (as defined in Section 1-1, a, 9.) as he may from time to time designate may remove, or cause to be removed, to some convenient place, including in such term a public garage and an open-air parking space, any vehicle in such street interfering with the plowing or removal of snow therein, except a vehicle owned by the Commonwealth or a political subdivision thereof or by the United States. At the time of such removal, a record in duplicate of the registration number of every vehicle removed under this subsection, a general description of such vehicle, the date and time of removal, and the place from which as well as the place to which the vehicle is removed, shall be made by or for the Commissioner, who shall keep one copy on file and forthwith send the other copy to the Police Commissioner.

The owner of every vehicle removed under this subsection shall be liable for the cost of such removal and of the storage charges, if any, resulting therefrom; provided that the cost of removal shall not exceed twelve (\$12.00) dollars and that the cost of storage shall not exceed fifty (\$.50) cents for the first hour (or fraction thereof), or ten (\$.10) cents for each subsequent hour (or fraction thereof), of storage. (Ord. 1945 c. 3; Ord. 1954 c. 2 § 84; Ord. 1962 c. 2; Rev. Ord. 1961 (Sup. 1971) c. 21 § 37; CBC 1975 Ord. T11 § 185; Ord. 1977 c. 12)

Cross-reference:

G.L. c. 40 § 21 c. 1.16

11-6.44 Vehicles Interfering with the Collection of Garbage and Refuse.

For the purpose of facilitating the collection of garbage and refuse, the Commissioner of Public Works or such subordinate or subordinates (as defined in Section 1-1a,9.) as he may from time to time designate may remove, or cause to be removed, to some convenient place in the City, including in such term a public garage, from any portion of a public way in the City or from any private way therein open to public use, any vehicle parked contrary to a sign within one hundred (100') feet banning parking at such time and place, except a vehicle owned by the Commonwealth or a political subdivision thereof or by the United States. At the time of such removal, a record in duplicate of the registration number of every vehicle removed under this subsection, a general description of such vehicle, the date and time of removal, and the place from which as well as the place to which the vehicle is removed shall be made by or for the Commissioner, who shall keep one copy on file and forthwith send the other copy to the Police Commissioner.

The owner of every vehicle removed under this subsection shall be liable for the cost of such removal and of the storage charges, if any, resulting therefrom; provided that the cost of removal shall not exceed twelve (\$12.00) dollars and that the cost of storage shall not exceed fifty (\$.50) cents for the first hour (or fraction thereof), or ten (\$.10) cents for each subsequent hour (or fraction thereof), of storage. (Ord. 1972 c. 9; CBC 1975 Ord. T11 § 186; Ord. 1977 c. 13)

Cross-reference:

St. T. 11 § 258

11-7 PROPERTY MANAGEMENT DEPARTMENT.

Editor's Note:

Section 3 of Ordinance 1994 c. 6 amended the name of the Real Property Department to the Property Management Department.

11-7.1 Property Management Board.

a. *Appointment; Term; Compensation.* There shall be in the City a Department, known as the Property Management Department, which shall be under the charge of a Board, known as the Property Management Board, consisting of an officer, known as the Commissioner of Property Management, appointed by the Mayor, who shall be Chairman of the Board, an Officer, known as the Assistant Commissioner of Property Management, appointed by the Mayor, and three (3) other officers, known as Associate Commissioners of Property Management, appointed by the Mayor. The Commissioner of Property Management and the Assistant Commissioner of Property Management shall each be appointed for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected and shall devote their whole time to the work. As the term of any Associate Commissioner in office when this ordinance takes effect, or of any subsequent Associate Commissioner, expires, his successor shall be appointed by the Mayor for a term of three (3) years. Any vacancy in the office of an Associate Commissioner shall be filled by the Mayor for the unexpired term. The Associate Commissioners of Property Management shall receive no compensation for their services as such Associate Commissioners.

b. *Duties of the Board.* The Property Management Board shall have the powers and perform the duties conferred or imposed on the Board of Real Estate Commissioners by Chapter 434 of the Acts of 1943, as amended, and by Chapter 474 of the Acts of 1946, as amended. The Property Management Board shall also have the powers and perform the duties conferred or imposed by statute on the Board of Street Commissioners in relation to the abatement of taxes.

The Property Management Board shall divide the Property Management Department from time to time into such subdivisions as said Board shall adjudge necessary for the proper conduct of the Department.

Notwithstanding the provisions of any existing law to the contrary, the Commissioner of Property Management shall cause to be placed all future lease agreements with lessees of municipality owned parking garages a provision for police security of patrons and their property. The determination as to the amount of police security shall be made by the Police Commissioner. Any police security so provided shall be performed by off-duty Boston Police Officers. In no event shall there be less than one off-duty Police Officer employed in each such garage. The hours of work of such off-duty Police Officers shall be determined by the Police Commissioner. (Ord. 1954 c. 2 § 58; Rev. Ord. 1961 e. 22 § 1; CBC 1975 Ord. T11 § 250; Ord. 1981 c. 17; Ord. 1994 c. 6 § 3)

Cross-reference:

St. 1943 c. 434; St. 1946 c. 474; Ord. ss 8-7.1; St. T.5 § 102

11-7.2 Committee on Foreclosed Real Estate.

The Mayor shall appoint from the Property Management Board a Committee consisting of the Chairman and two (2) other members to be known as the Committee on Foreclosed Real Estate. Said Committee shall have the powers and perform the duties conferred or imposed by law on the Committee on Foreclosed Real Estate established under Section 4 of Chapter 434 of the Acts of 1943.

(Rev. Ord. 1961 c. 22 § 2; CBC 1975 Ord. T11 § 251; Ord. 1994 c. 6 § 3)

Cross-reference:

St. 1943 c. 434 § 4

11-7.3 Powers and Duties of Commissioner; Superintendent of Markets.

The Commissioner of Property Management shall have the powers and perform the duties conferred or imposed on the Chairman of the Board of Real Estate Commissioners by Chapter 434 of the Acts of 1943, as amended, and shall exclusively have the powers, and perform the duties, of a Department Head with respect to the appointment, suspension, discharge, compensation and indemnification of subordinates for the Property Management Department (and the several officers thereof), and including also a Superintendent of Markets, who,

subject to the supervision and control of the Assistant Commissioner of Property Management, shall have the charge and control of Faneuil-Hall Market and Faneuil-Hall Market limits; shall preserve order therein; shall make such changes, and place or allow to be placed in said market such pipes, drains, and other appliances, as he may deem proper; and shall take and forthwith destroy any article of food which in his opinion is diseased, unwholesome, or tainted, and is kept for sale within such market limits. Said Superintendent may assign stands within such market limits for the sale of provisions and other articles, and may, at the expense of the owner thereof, remove from one place or stand to another within such limits, or to, and to be kept in, a proper storage place until the expense is paid, any merchandise, vehicle or animal, not under the charge of any person, or not immediately so removed on the direction of said Superintendent or his deputies.

(St. 1943 c. 78; Ord. 1946 c. 5; Rev. Ord. 1961 c. 22 § 3; CBC 1975 Ord. T11 § 252; Ord. 1994 c. 6 § 3; Ord. 1995 c. 3 § 2)

Cross-reference:

*St. 1943 c. 434; St. 1945 c. 652 § 2A.;
St. 1951 c. 633 § 3*

**11-7.4 Assistant Commissioner of
Property Management, Powers
and Duties.**

The Assistant Commissioner of Property Management shall have the care, custody and management of, shall make all repairs in and upon, and shall keep in repair the furniture of, all buildings and parts of buildings belonging to or hired by the City, not wholly in charge of one Department, or for which no other provision is made by statute or ordinance, whether the same are used for City or County purposes, and may, with the approval of the Mayor, hire such buildings or rooms as may be required for such purposes; shall have the care and control of the City Hall and the City Hall Annex; shall have the care and custody of the flags belonging to the City Hall and to the Old State House; shall display the national flag upon the City Hall on every day, except Sundays, weather permitting; shall have charge of all City property in the armories provided by the City for the militia; and shall cause to be included in the annual report of the Property Management Board a statement of the kind and amount of City property in such armories, of all buildings belonging to or used by the

City, and of the land and appurtenances thereof, of the condition of such buildings and land, and the nature and amount of the expenditures that have been made during the preceding year relative thereto. In exercising care and control of City Hall and all buildings belonging to or hired by the City, the Assistant Commissioner shall provide suitable space no later than January 1, 1989 to be used as a child care center for children of City employees.

(Ord. July 1, 1850; Rev. Ord. 1961 c. 22 § 4; CBC 1975 Ord. T11 § 253; Ord. 1987 c. 17; Ord. 1994 c. 6 § 3)

Cross-reference:

Ord. ss 1-2.4; 1-2.5

**11-7.5 Assistant Commissioner of
Property Management to Have
Custody of Faneuil Hall.**

The Assistant Commissioner of Property Management shall have the care, custody and management of Faneuil Hall, shall, weather permitting, every day except Sundays, display the national flag upon the building in which said hall is located, shall, upon vote of the City Council approved by the Mayor and payment of the charge prescribed by subsection 18-1.8, paragraph 4., permit the use of said Hall, and shall hold all persons signing the application for such permit jointly and severally liable for all damage done to said Hall at or in connection with the meeting for which such permit is granted.

(Ord. 1956 c. 7 § 5; Rev. Ord. 1961 c. 22 § 5; CBC 1975 Ord. T11 § 254; Ord. 1994 c. 6 § 3)

Cross-reference:

Ord. Section 1-3; Ord. Section 16-21

**11-7.6 Lease of Stalls by Assistant
Commissioner of Property
Management.**

The Assistant Commissioner of Property Management shall lease, from time to time, by instruments approved as to form by the Corporation Counsel and approved in writing by the Mayor, the stalls, cellars, and second floor in Faneuil Hall Market for terms of up to ten (10) years at market rates as determined by procedures customarily accepted by the appraising profession as valid and as approved by City Council and upon such other terms and conditions as may be approved by the Corporation Counsel and the Mayor. The Assistant Commissioner of Property

Management may delegate his authority hereunder, provided said delegation is approved as aforesaid. (Rev. Ord. 1961 c. 22 § 6; CBC 1975 Ord. T11 § 255; Ord. 1994 c. 6 § 3; Ord. 2003 c. 22)

Cross-reference:

Ord. ss 2-7.4; Statutes T4 § 8; Ord. ss 5-8.1

11-7.7 Care of Dillaway House by Assistant Commissioner of Property Management.

The Assistant Commissioner of Property Management shall have the care, custody and management of the Dillaway House, so called, in the Roxbury district of the City, may establish rules and regulations for the use and preservation of said house as a historical relic of the Revolutionary War, and may, upon vote of the City Council approved by the Mayor, let or lease the whole or any part of said house to a historical society or other association organized for historical purposes.

(Ord. 1934 c. 1; Rev. Ord. 1961 c. 22 § 7; CBC 1975 Ord. T11 § 256; Ord. 1994 c. 6 § 3)

11-7.8 Designation of Ward-Rooms.

The Assistant Commissioner of Property Management shall designate, in the places named in orders of the City Council, a suitable room to be used for a wardroom for the ward in which it is situated. If any such room cannot be so used at any time, said Assistant Commissioner shall provide accommodation elsewhere for any public meeting in such ward for which he shall issue a permit.

(St. 1914 c. 630; Rev. Ord. 1961 c. 22 § 8; CBC 1975 Ord. T11 § 257; Ord. 1994 c. 6 § 3)

Cross-reference:

G.L. c. 54 § 1; Ord. ss 2-3.2; Ord. ss 16-21

11-7.9 Assistant Commissioner to Have Custody of Ward-Rooms.

The Assistant Commissioner of Property Management shall have the care and custody of, shall determine the use of, and provide for opening, closing, lighting, and heating the ward-rooms; shall frame and keep in some conspicuous place therein a copy of this and the following section, and as soon as a list or a revised list of voters in a ward is prepared by the Election Commissioners shall keep posted or

hung up a copy thereof in the ward-room of the ward in such a manner as to be readily accessible to the public, and such copies shall be altered, revised or removed only under the direction of the Election Commissioners or said Assistant Commissioner.

(Rev. Ord. 1961 c. 22 § 9; CBC 1975 Ord. T11 § 258; Ord. 1994 c. 6 § 3)

Cross-reference:

Ord. ss 2-3.1

11-7.10 Permits for Ward-Rooms; Revocation, Conditions.

The Assistant Commissioner of Property Management, when a written application (containing a copy of the call for a meeting notifying all persons who may be present that it will be subject to the provisions of this section) is made to him by not less than five (5) legal voters of a ward for the use of a ward-room for the purpose of holding such a meeting, and when he is paid such sum of money as will in his opinion be sufficient to defray the expense of opening, lighting, heating, and closing the ward-room during the time specified in the permit, may issue a permit for the use of such ward-room, which permit may at any time be revoked by the Mayor. Said Assistant Commissioner shall specify in the permit the time and purpose of the meeting, and that the meeting will be subject to the following provisions, viz.: Only legal voters in the ward in which such meeting is held, and to whom no objection is made by the majority of such applicants as are present or by the presiding officer of such meeting, shall mark or vote, or remain at such meeting, and the members of the police force present shall keep the peace at such meeting, obey the lawful orders of, and remove such persons as shall be designated by, the majority of such applicants as are present, or after the election of a presiding officer of the meeting, such persons as shall be designated by such presiding officer. Said Assistant Commissioner shall request the Police Commissioner to detail police sufficient to enforce such provisions.

(Rev. Ord. 1961 c. 22 § 10; CBC 1975 Ord. T11 § 259; Ord. 1994 c. 6 § 3)

11-7.11 Allotment of Spaces Within City Hall Garage.

Notwithstanding any other provision of ordinance, the Property Management Board shall

make available not less than twelve (12) spaces for the parking of automobiles within the garage at City Hall for the exclusive use of the City Council or members of its staff as such spaces may be assigned by the City Council. The remaining spaces in said garage shall be available for the use of other City officials as may be assigned by the Mayor.

(Ord. 1981 c. 1; Ord. 1994 c. 6 § 3)

11-7.12 Prompt Release of Information in Cases of Stranger Sexual Assault.

a. The Boston Police Department, as a policy, shall make timely dissemination of information to the public and media concerning stranger sexual assaults or attempts to commit such assaults.

b. Any information released shall be limited to standards prescribed below, shall be prepared by the Commanding Officer of the Sexual Assault Unit or official designated by the Police Commissioner; and shall only be released by the Police Commissioner, a designated official or member of the Police Department authorized to deal with the press.

c. Information on sexual assaults or attempts or patterns of assaults released to the public and media shall be provided only in writing.

d. Only the following information may, at the discretion of the Commanding Officer of the Sexual Assault Unit, be released:

1. Type of crime (classification to be determined by the department); date of assault; approximate time of attack; location of assault; arrest, if any; description of perpetrator, only if the investigation of such assault(s) will not be compromised by its release and only if the description is detailed enough to be helpful to the public.

2. The above information shall be released only if it meets the following two criteria: (1) the victim's identity must not become known, either directly or indirectly as a result of the release of this information; and (2) only information necessary to alert the public of a potential threat will be provided.

3. This policy shall be reviewed annually, or whenever deemed necessary, by members of the appropriate designated officers to evaluate its effectiveness and address any problems or deficiencies.

(Ord. 1993 c. 11 §§ 1-4)

11-7.13 Transfer of Functions Between the Public Facilities Department and the Property Management Department.

a. Pursuant to St. 1953, c. 473, the powers and duties of the Property Management Department's Property Division, created by the Property Management Board under the authority of St. 1943, c. 434 are hereby transferred to the Public Facilities Department, provided, however, that the powers conferred by St. 1946, c. 474 and the functions related to public off-street parking facilities shall be retained within the Property Management Board.

b. Pursuant to St. 1953, c. 473, the Alterations and Repair Unit within the Construction and Repair Division of the Public Facilities Department, and the functions and duties of the Enforcement and Communications Programs of said Department are hereby transferred to the Property Management Department.

c. As provided in St. 1909, c. 486, as amended, every person holding an office or position subject to the civil service law and rules shall, if the office or position is abolished hereby, be reappointed without examination or registration to a similar office or position with similar status in the Public Facilities Department or the Property Management Department, as appropriate, and shall upon such reappointment retain all rights to retirement with pension that shall have or would have accrued, and that person's services shall be deemed continuous to the same extent as if this reorganization had not taken place.
(Ord. 1994 c. 6 §§ 1, 2, 4)

11-7.14 City Hall Plaza, Rental of.

The Commissioner of Property Management, who has care custody and control of City Hall Plaza, shall have the authority to execute short-term leases of space on City Hall Plaza for various events through advertised requests for proposals. Prior to issuing the request for proposal the Commissioner of Property Management shall obtain an appraisal of fair market value from a professional appraiser. All such leases shall be approved as to form by Corporation Counsel and approved in writing by the Mayor. All proceeds from said leases shall be deposited in a revolving fund approved annually pursuant to M.G.L. c. 44, Section 53 E1/2. Fees, rules and regulations established under

Section 18-1.3, 14A of the Code also apply to events under this section.
(Ord. 2012 c. 4)

11-8 LIBRARY DEPARTMENT AND TRUSTEES OF THE PUBLIC LIBRARY.

11-8.1 Duties of Trustees.

The Library Department shall be under the charge of a Board of nine (9) Trustees, who shall adopt such measures as shall extend the benefits of the institution as widely as possible, and may from time to time establish branch libraries and delivery stations in different sections of the City; and shall annually appoint an examining Committee of not less than five (5) persons, not members of the Board who, with one of the Board as Chairman, shall examine the library and make to the Board a report of its conditions.
(St. 1853 c. 38; St. 1878 c. 114; St. 1885 c. 266 §§ 6, 12; Rev. Ord. 1961 c. 18 § 1; CBC 1975 Ord. T11 § 350; Ord. 1989 c. 6; Ord. 1994 c. 5 §§ 1, 2)

11-8.2 Annual Report.

The Board shall, in its annual report, include a statement of the condition of the library, the number of books that have been added thereto during the year, the report of the Committee appointed to examine the library, and the total amount of money received from fines and sales.
(Rev. Ord. 1961 c. 18 § 2; CBC 1975 Ord. T11 § 351)

11-9 CIVIL DEFENSE DEPARTMENT.

11-9.1 Department of Civil Defense Established.

There is hereby established a Department of Civil Defense (hereinafter called the "Department"). It shall be the function of the Department to have charge of civil defense as defined in Section 1, Chapter 639, Acts of 1950, and to perform civil defense functions as authorized or directed by said Chapter or by any and all executive orders or general regulations promulgated thereunder, and to exercise any authority delegated to it by the Governor under said Chapter 639.
(Ord. 1950 c. 8; Rev. Ord. 1961 (Temporary Ord.); CBC 1975 Ord. T11 § 400)

Cross-reference:

St. 1950 c. 639 § 1

11-9.2 Director of Civil Defense.

The Department shall be under the direction of a Director of Civil Defense (hereinafter called the "Director"), who shall be appointed as prescribed by law. The Director shall have direct responsibility for the organization, administration, and operation of the Department subject to the direction and control of the appointing authority and shall receive such salary as may be fixed from time to time by the appointing authority. The Director may, within the limits of the amount appropriated therefor, appoint such experts, clerks, and other assistants as the work of the Department may require and may remove them, and may make such expenditures as may be necessary to execute effectively the purposes of Chapter 639, Acts of 1950. The Director shall also have authority to appoint District Coordinators and may accept and may receive on behalf of the City, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of civil defense, offered by the Federal government or any agency or officer thereof or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The Director shall cause appropriate records to be kept of all matters relating to such gifts, grants, or loans.
(Ord. 1950 c. 8; Rev. Ord. 1961 (Temporary Ord.); CBC 1975 Ord. T11 § 401)

Cross-reference:

St. 1950 c. 639

11-9.3 Civil Defense Advisory Council.

There is hereby established a Civil Defense Advisory Council (hereinafter called the "Council"). Said Council shall serve without pay and shall consist of the Director of Civil Defense, such other Department heads and such other persons as the authority appointing said Director may deem necessary. Such member of said Council as said appointing authority shall designate shall serve as Chairman of said Council. Said Council shall serve subject to the direction and control of the appointing authority and shall advise said appointing authority and the Director on matters pertaining to civil defense.
(Ord. 1950 c. 8; Rev. Ord. 1961 (Temporary Ord.); CBC 1975 Ord. T11 § 402)

11-9.4 Police Aid to Other Cities and Towns in Event of Riots and Other Violence Therein.

The Police Department is hereby authorized to go to aid another City or Town at the request of said

City or Town in the suppression of riots or other forms of violence therein.

(Ord. 1950 c. 8; Rev. Ord. 1961 (Temporary Ord.); CBC 1975 Ord. T11 § 403)

Cross-reference:

Ord. s 11-1

11-9.5 Termination of Ordinance.

This ordinance shall remain in force during the effective period of Chapter 639, Acts of 1950, and any act in amendment or continuation thereof or substitution therefor.

(Ord. 1950 c. 8; Rev. Ord. 1961 (Temporary Ord.); CBC 1975 Ord. T11 § 404)

Cross-reference:

St. 1950 c. 639

11-9.6 Definition.

All references to Chapter 639, Acts of 1950, as now in force shall be applicable to any act or acts in amendment or continuation of or substitution for said Chapter 639.

(Ord. 1950 c. 8; Rev. Ord. 1961 (Temporary Ord.); CBC 1975 Ord. T11 § 405)

Cross-reference:

St. 1950 c. 639

11-10 PARKS AND RECREATION DEPARTMENT.

11-10.1 Overview.

The City of Boston Parks and Recreation Department oversees 2,200 acres of parkland including 215 parks and playgrounds, 65 squares, 16 historic burying grounds, three (3) active cemeteries, two (2) golf courses, a variety of urban woodlands, and immeasurable street trees. The Department also programs a wide range of community events and live entertainment in the parks under its jurisdiction and employs Boston Park Rangers to monitor the parks and enhance public safety. Over the last 10 years, the Parks Department has implemented a \$120 million rehabilitation of the City park system targeting every tot lot and most ball fields and hard courts. (Ord. 2004 c. 13 § 1)

11-10.2 Dog Recreation Spaces.

11-10.2(a) Introduction and Purpose.

These sections delineate a community-initiated process for the City of Boston to establish dog recreation spaces within the City of Boston through the City's Parks and Recreation Commission and an external Applicant for a Boston Dog Recreation Space. The Applicant may be an individual, a group of individuals, or a formal organization. The process is *community-initiated*, and it remains *community-centered* by requiring the Applicant to remain actively involved in the maintenance of the space and the implementation of rules and regulations in and around the space. This section is designed and intended to highlight and require a prominent role of the Applicant for a Boston Dog Recreation Space in the creation, establishment, funding, and maintenance of the dog recreation space.

The Applicant will also assume a primary role in establishing, promulgating, and compelling compliance with standards of conduct in and around the dog recreation spaces.

The establishment of a dog recreation space requires measures of flexibility to allow for variations in space availability and the needs of the neighborhoods enjoying the dog recreation space; such flexibility may include the establishment of multi-use parks/areas. Although the City of Boston has a multitude of pre-existing commitments to other current recreational uses in the City's parks, it is the intention of the City to preserve the space and integrity of the City's tot lots, tennis courts, basketball courts, tracks, and baseball/softball fields, which shall in no way be diminished or compromised by the siting/location of a Dog Recreation Space. The provisions of these sections, however, shall not preclude an Applicant from seeking to use other publicly-owned land, other than parkland, for a Dog Recreation Space. (Ord. 2004 c. 13 § 1)

11-10.2(b) Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in these sections.

a. *Applicant* is defined in CBC 11-10.2(c)

b. *CBC* means the City of Boston Code of Ordinances.

c. *Commission* means the Parks and Recreation Commission of the City of Boston or its successor.

d. *Dog Keeper* means any person that supervises a dog entering a DRS, recreating within a DRS, or exiting a DRS.

e. *Dog Officer* means the Dog Officer of the City of Boston as identified in CBC 14-5 or his/her designee, agent, or successor.

f. *Dog Recreation Space* or DRS means any area of land, including but not limited to an area within existing public or park space, that, pursuant to CBC 11-10.2, has been specifically designated as a Dog Recreation Space.

g. *MOA* means a Memorandum of Agreement between the Parks and Recreation Commission and the Applicant which delineates the understanding and/or agreement of the roles and responsibilities for the creation, maintenance, and operation of a DRS.

h. *Owner* means any person that owns a dog entering a DRS, recreating within a DRS, or exiting a DRS whether or not the Owner is acting as a Dog Keeper.

i. *Park Ranger* means any Ranger of the Parks and Recreation Department of the City of Boston.

j. *Parks and Recreation Commission* means the Parks and Recreation Commission of the City of Boston as identified in CBC 7-4.1 or its designee, agent, or successor.
(Ord. 2004 c. 13 § 1)

11-10.2(c) Applicant for a Dog Recreation Space.

Applicant means a group of ten (10) individuals that applies for and/or receives approval for the designation of a Dog Recreation Space. Nothing in

these sections shall prevent a pre-existing "Friends" group from acting as an Applicant. Each person comprising the Applicant shall be a resident of the City of Boston.

The Applicant shall designate one (1) person to be the sole contact for communication with the City, and the person so designated may be changed by the Applicant only by forwarding written notice to the Commission. No person other than the person so designated on the application, or changed in accordance with the terms of this paragraph, shall have authority or standing to interact with the City regarding a specific DRS. Unless designated on the application, no individual user of a DRS shall have authority or standing to interact with the City regarding a specific DRS.
(Ord. 2004 c. 13 § 1)

11-10.2(d) Procedure for Establishing and Designating a Dog Recreation Space.

No Dog Recreation Space may be established without the express written authorization of the Commission.

(1) *Application*. The Applicant may apply to the Commission for the establishment of a Dog Recreation Space, and such application shall be submitted to the Executive Secretary of the Parks and Recreation Commission. The application shall include, but not be limited to, (i) the proposed specific site for the DRS, (ii) the specific dimensions of the proposed area for the DRS, (iii) the specific method, including materials, of separation/segregation of the DRS from the adjoining/surrounding area, (iv) the proposed methods, materials, and/or procedures for the placement and maintenance of ground cover, trash receptacles, benches, lights, signage, and water fountain/hose, which support the comfortable use of the DRS, (v) a proposed plan for construction of the DRS including a timeline for construction of the DRS and a plan for funding the construction of the DRS including but not limited to the collection of membership fees, the collection of user fees, private-sector fundraisers, private-sector donations, and/or partnerships with businesses, (vi) a proposed plan for the maintenance of the DRS including a plan for funding the maintenance of the DRS including but

not limited to the collection of membership fees, the collection of user fees, private-sector fundraisers, private-sector donations, and/or partnerships with businesses, (vii) an estimate of the number of dogs that will use the DRS, (viii) the hours of operation of the DRS but such hours shall not extend beyond the hours noted in CBC 11-10.2(f), (ix) a certification signed by the Applicant that the Applicant notified the abutters of the proposed DRS of the application as prescribed in the attached "Instructions for Notification to Abutters" and "Affidavit of Notice to Abutters and Others," (x) a description of the Applicant's efforts to obtain input from the immediate community/neighborhood regarding the DRS including a list of addresses from which input was obtained and which may include a petition signed by identifiable members of the immediate community/neighborhood and the local and state elected officials representing the area of the DRS, (xi) a letter or memorandum of support or a letter or memorandum of non-opposition, from the neighborhood civic association overseeing the proposed site of the DRS referencing the DRS, (xii) an identification of and description of any organization overseeing the operation and/or management of the DRS, (xiii) a draft proposed MOA in a form substantially similar to the form annexed to this ordinance and in a form that, at a minimum, shall contain all of the sections in the draft proposed form MOA annexed to this ordinance, (xiv) any other information the Commission may require, and (xv) the signatures of each person constituting the Applicant or, if the Applicant is comprised of one or more organizations, the signatures of the officers of such organization(s). No application may be considered unless the application contains materials that completely satisfy the requirements of this subsection.

(2) *Review and Decision.* The Applicant shall submit the application to the Commission, through the Executive Secretary of the Parks and Recreation Commission, who shall review the application and shall accept the written comments of the residents of the neighborhood in which the DRS is proposed to be sited and consider such comments before issuing a written decision regarding the application. The Commission shall issue a written decision no later than the sixtieth (60th) calendar day after the Commission's first meeting subsequent to the Commission's receipt

of the application. If the Commission disapproves the application then the Commission shall forward a copy of the disapproval, complete with reasons for the disapproval, to the Applicant. If the Commission approves the application then the Commission shall promptly forward written notification of the approval to the Applicant. The approval of the Commission shall contain as a condition for the designation of a proposed area as a DRS a requirement for the Applicant to deposit with the Commission an amount of money determined at the sole discretion of the Commission to be adequate to close and dismantle the DRS as planned in the Application, and such deposit shall be used to close and dismantle the DRS upon the expiration, forfeiture, revocation, or other final termination of the DRS designation if the Applicant fails or refuses to dismantle the DRS within thirty (30) calendar days of the expiration, forfeiture, revocation, or other final termination of the DRS designation. The size of the DRS shall be at the sole discretion of the Commission, and the Commission shall consider the proportion of the DRS to the gross area of the park in which the proposed DRS is located.

The approval of the Commission may contain other conditions for the designation of the proposed area as a DRS.

(3) *Acceptance.* The area proposed in an application that has been approved by the Commission shall be designated a Dog Recreation Space if the Applicant, no later than the fourteenth (14th) calendar day after receipt of the Commission's notice of approval, accepts, in writing, the decision of the Commission including any conditions attached thereto and remits the required deposit. If the Commission does not receive an acceptance and deposit within the fourteen- (14-) day period then the offered designation shall lapse.

(4) *Probation.* Upon acceptance, an area's initial designation as a DRS shall be effective for a one (1) year probationary period wherein the Commission may revoke the designation at the Commission's discretion.

(5) *Expiration/Sunset/Renewal.* The designation of an area as a DRS shall expire on the fifth (5th) anniversary of its acceptance. The Applicant may submit a renewal application to the

Commission no earlier than one hundred twenty (120) calendar days before the date of the fifth (5th) anniversary of acceptance of the designation as a DRS or the most recent renewal thereof and no later than thirty (30) calendar days after the fifth (5th) anniversary of the acceptance or renewal of the designation. The Applicant is not required to apply for renewal, and any DRS that is not successfully renewed shall be closed and dismantled by the Applicant within ninety (90) calendar days after the fifth (5th) anniversary of the acceptance or renewal of the designation as a DRS unless the Commission forwards other instructions in writing to the Applicant. The Applicant may apply for renewal of a designation by submitting a written request therefor to the Commission. The Commission shall consult with the Dog Officer regarding the renewal and shall, in writing, approve or reject the renewal within thirty (30) calendar days of receipt of the request for renewal. Upon receipt of a rejected renewal, the Applicant shall close and dismantle the DRS.

(6) *Re-Application.* Nothing in these sections prohibits the Applicant from reapplying if it has received notice of disapproval of an application or if it has allowed an offered designation to lapse from re-applying. The Applicant may not submit more than two (2) re-applications for the same DRS, and the Commission may not review more than two (2) re-applications for the same DRS.

(7) *Design and Construction Approval.* At all times, the Parks and Recreation Commission shall have final approval authority over any and all aspects of design and construction and no DRS designation may begin operations as a DRS without the final approval of the Commission.
(Ord. 2004 c. 13 § 1)

11-10.2(e) Managing a Dog Recreation Space.

The Applicant shall promulgate rules and regulations for the use of a DRS. Any rules and regulations shall not be more permissive than the current laws, ordinances, orders, rules, regulations, and/or policies governing the operation and use of public spaces, public parks, and/or Dog Recreation Spaces but may, however, be more restrictive than the

current laws, ordinances, orders, rules, regulations, and/or policies governing the operation and use of public spaces, public parks, and/or Dog Recreation Spaces. Rules and regulations shall be posted at the DRS, the name and telephone number of the person designated in CBC 11-10.2(c) shall be posted at the DRS, and any signage must be in compliance with CBC 11-10.2 and with the City of Boston's guidelines.

Complaints regarding a DRS shall be directed to the Commission which shall notify the Applicant of any complaint within five (5) business days. Complaints regarding a DRS may also be directed to the Applicant pursuant to the name and telephone number of the person designated in CBC 11-10.2(c) as posted at the DRS pursuant to the previous subsection.

The Applicant shall be responsible for the management of the DRS. Upon notice to the Applicant of any violation, the Applicant shall have fourteen (14) calendar days to correct any violation. The Applicant shall notify the Dog Officer of any serious incidents, including but not limited to accidents resulting in human or dog injury, any dog bite of a human or another dog, and any verbal or physical altercations between humans, at the DRS and of any troublesome and/or recidivist dogs, Dog Keepers, Owners, and/or other users of the DRS. The Applicant shall notify the Dog Officer of any patterns of objectionable or unsafe behavior or patterns of objectionable or unsafe occurrences for correction or remediation. The Dog Officer and the Applicant shall have the authority to ban any dog and/or any Dog Keeper from a DRS. Uncorrected violations at a DRS, a single serious incident or a pattern of serious incidents at a DRS, or other circumstances compromising public health or public safety may result in temporary closing of the DRS for a defined period of time and/or suspension, forfeiture, or revocation of the DRS designation.

The Maintenance Division of the Parks and Recreation Department shall not be responsible for the maintenance of a DRS. The Commission shall supply and maintain an adequate number of trash receptacles for each DRS. The Applicant shall immediately advise the Commission of any concerns with the adequacy or maintenance of the trash receptacles.

The Applicant shall have the authority to recommend to the Commission that a DRS be temporarily closed for a defined period of time and/or suspension or forfeiture of its status as a DRS. (Ord. 2004 c. 13 § 1)

11-10.2(f) Use of a Dog Recreation Space.

The use of a Dog Recreation Space shall be subject to the following conditions:

(1) No dog may enter a DRS or recreate within a DRS unless it is licensed and vaccinated for rabies. No dog may enter a DRS or recreate within a DRS unless it is wearing a collar with the license, the vaccination tag, and a tag with the dog's name, Owner's name, and Owner's telephone number secured to the collar at all times.

(2) No dog may enter a DRS unless it is more than four (4) months old.

(3) No person may enter a DRS unless he/she is eighteen (18) years of age or older unless he/she is accompanied by an adult which shall be responsible for the actions of the minor and any dog supervised by such minor.

(4) Except under exigent circumstances, no person in or near a DRS shall run, shout, scream, wave, or engage in any behavior that excites or antagonizes a dog in or near the DRS or in any way violate the cruelty laws, including but not limited to M.G.L. c. 272, s. 77 and all persons shall note the liability restrictions in M.G.L. c. 140, s. 155.

(5) No female dog in heat may enter a DRS.

(6) No dog shall enter or exit the DRS unless restrained by a Dog Keeper on a leash complying with the requirements of the City of Boston Code and each and every Dog Keeper must have a leash for each and every dog so handled on his/her person at all times.

(7) Each and every Dog Keeper must vigilantly supervise his/her dog(s), including but not limited to, (i) remaining within the DRS at all times during which his/her dog(s) is within the DRS, (ii) keeping his/her dog(s) within sight, (iii) maintaining adequate

behavioral control over his/her dog(s) within and around a DRS, (iv) immediately filling any hole created by his/her dog(s) within and around a DRS and disciplining his/her dog from digging within and around a DRS, and (v) immediately removing and properly disposing of any and all dog waste from within and around a DRS.

(8) Each and every Dog Keeper must remove his/her dog from a DRS at the first sign of aggression from his/her dog(s) even if the aggression is defensive, retaliatory, or provoked. Dog Keepers and dogs within a DRS remain subject to the requirements, provisions, and penalties of CBC 16-1.9B and M.G.L. c. 140, s. 157.

(9) No Dog Keeper may bring more than three (3) dogs into or around a DRS at one time.

(10) In no event may bicycles, roller blades, roller skates, scooters, skateboards, strollers, or other similar items enter a DRS. Wheelchairs are expressly permitted within a DRS.

(11) In no event may a Dog Keeper or dog enter a DRS after 11:00 p.m. or before 6:00 a.m.

(12) Use of a DRS shall constitute (i) the consent of the user, Dog Keeper, and/or Owner to all of the laws, ordinances, orders, rules, regulations, and policies governing the operation and use of a DRS, (ii) a waiver of the user, Dog Keeper, and/or Owner of any liability of the City of Boston for any injury or damage arising as a result of the use of a DRS, and (iii) the agreement of the user, Dog Keeper, and/or Owner to protect, indemnify, defend, and hold harmless the City of Boston for any injury or damage arising as a result of the use of a DRS.

Nothing in these sections shall prohibit the development and employment of a specific program to regulate the use of Dog Recreation Spaces which may require licenses and/or fees.

(Ord. 2004 c. 13 § 1)

11-10.2(g) Education Program.

The Applicant shall create and implement educational programs regarding the laws, ordinances,

orders, rules, regulations, and policies regarding dogs, dogs in public spaces, and the use of Dog Recreation Spaces. With the cooperation and funding of the Applicant, the Commission shall install signage at each DRS summarizing the laws, ordinances, orders, rules, regulations, and policies of Dog Recreation Spaces, provided that the size, content, and placement of such signs are approved by the Dog Officer. The signage shall include (i) the name, address, and telephone number of the Applicant, (ii) the name, address, and telephone number of any organization, if such organization is not the Applicant, overseeing the operation and/or management of the DRS, (iii) the title and telephone number of the Dog Officer, and (iv) the name and telephone number of the Department.

The Dog Officer, pursuant to CBC 7-9.2, shall conduct educational programs relating to animal control as it shall deem necessary or desirable.
(Ord. 2004 c. 13 § 1)

11-10.2(h) Violations and Penalties.

A first violation of these sections in any calendar year shall be subject to a fine of one hundred dollars and no cents (\$100.00). A second violation of these sections in any calendar year shall be subject to a fine of two hundred dollars and no cents (\$200.00). A third violation of these sections in any calendar year shall be subject to a fine of three hundred dollars and no cents (\$300.00). Any single violation may be subject to revocation of the privileges of the Dog Keeper and the Dog Keeper's dog(s) to enter a DRS or recreate within a DRS. In the event that the penalties delineated in this sub-section conflict with other fines authorized by the City of Boston then the penalty imposed pursuant to this sub-section shall supplement any other penalty.

A pattern of violations at any DRS may result in temporary closing of the DRS by the Commission for a defined period of time and/or suspension, forfeiture, or revocation of the DRS designation.
(Ord. 2004 c. 13 § 1)

11-10.2(i) Suspension, Forfeiture, and/or Revocation of Designation as Dog Recreation Space and Closure.

The Commission shall have the authority to suspend, revoke, or deem forfeited a DRS designation. At the Commission's sole discretion, the Commission may suspend, revoke, or deem forfeited a DRS designation for reasons including, but not limited to, a violation of these sections, a violation of the MOA, or a failure or refusal to abide by the terms of the MOA. The Commission shall immediately suspend, revoke, or deem forfeited the DRS designation upon a written recommendation of the Dog Officer citing an incident or incidents at or near a DRS that compromise or jeopardize the public health or public safety.

A suspension shall not be considered punitive but shall be for a limited time not to exceed thirty (30) calendar days and for a limited purpose which shall be specified in a written notice of suspension forwarded to the Applicant, and the Commission shall close the DRS for the duration of the suspension. A suspension shall be deemed to be a warning to the Applicant and the users of the DRS. A summary of the reasons for the suspension, the term of the suspension, and the terms for lifting the suspension shall be posted at the DRS.

The Applicant shall be solely responsible for ensuring that the condition(s) requiring correction pursuant to a notice of suspension are subsequently corrected. If the condition(s) in the notice of suspension are not corrected within the limited time of the suspension, then the Commission may, in the Commission's sole discretion, revoke or deem forfeited the DRS designation upon written notice to the Applicant, and the Commission may order the Applicant to close and dismantle the DRS immediately upon the conclusion of any appeal period or the Commission may close and dismantle the DRS immediately upon the conclusion of any appeal period.

The Applicant may appeal a revocation or forfeiture of a DRS upon written notice of appeal to

the Commission which shall be delivered to the Executive Secretary of the Commission within ten (10) calendar days of the notice of revocation/forfeiture. The Commission shall schedule a hearing and inform the Applicant of the date, time, and place of the hearing in writing. The hearing shall commence within thirty (30) calendar days after the date of the notice of revocation/forfeiture. At the hearing, the Applicant shall be given an opportunity to be heard, to present witnesses or documentary evidence, and to show why the notice of revocation/forfeiture should be modified or withdrawn. An official record shall be kept of the hearing proceedings and made available to the Applicant upon request. Failure to hold a hearing within the time period specified herein shall not affect the validity and/or enforceability of any notice of revocation/forfeiture.

If a written notice of appeal is not filed with the Executive Secretary Commission within ten (10) calendar days after the date of the notice of revocation/forfeiture or if after a hearing the notice of revocation/forfeiture has been sustained in any part, then the notice of revocation/forfeiture shall be enforceable pursuant to the provisions of these sections.

(Ord. 2004 c. 13 § 1)

**11-10.2(j) Limited Exception of
CBC 16-1.9.**

Although the purpose and intent of CBC 16-1.9 shall be effective at all times, a dog and its Dog Keeper shall benefit from a limited exception to CBC 16-1.9. Specifically, the narrow provision of CBC 16-1.9 prohibiting a dog to run at large in a public place shall be stayed while a Dog Keeper is supervising his/her dog recreating within the confines of a Dog Recreation Space. As noted in a previous section, all dogs must be leashed while entering or exiting the Dog Recreation Space and shall remain leashed at all times outside the Dog Recreation Space.

(Ord. 2004 c. 13 § 1)

11-10.2(k) Regulatory Authority.

The Commission, pursuant to CBC 7-4.8 or otherwise, shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

(Ord. 2004 c. 13 § 1)

11-10.2(l) Enforcement Authority.

The Commissioner of the Parks and Recreation Department, the Dog Officer, the Commissioner of the Boston Police Department, and the Commissioner of the Boston Municipal Police Department shall have the authority to implement and enforce these sections and any rules and regulations promulgated pursuant thereto.

(Ord. 2004 c. 13 § 1)

11-10.2(m) Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2004 c. 13 § 1)

11-10.2(n) Harmonious Construction.

These sections shall be construed harmoniously with all laws, ordinances, orders, rules, regulations, and policies regarding parks, public spaces, and animal control such that all laws, ordinances, orders, rules, regulations, and policies effectively provide the greatest level of public health, public safety, equity, and fairness.

(Ord. 2004 c.13 § 1)

11-10.2(o) Savings Clause.

Nothing in these sections shall operate to immediately invalidate any dog park existing at the time of passage of these sections except that any pre-existing concerns/problems may be forwarded in writing to the Commission and such concerns/problems shall be immediately addressed. Any dog park existing at the time of passage of these sections shall be closed within one (1) year of passage of these sections unless an Applicant undertakes the application process for any dog park existing at the time of passage of these sections to become a DRS pursuant to these sections subject to all of the rights, responsibilities, obligations, and duties therein, specifically including but not limited to the probationary period in CBC 11-10.2(d)(4).

Nothing in these sections shall operate to invalidate any dog park that has been designed and/or

approved by the Parks and Recreation Department or the Parks and Recreation Commission prior to the passage of these sections except that any pre-existing concerns/problems may be forwarded in writing to the Commission and such concerns/problems shall be immediately addressed. Any such dog park existing at the time of passage of these sections shall be closed within one (1) year of passage of these sections unless an Applicant undertakes the application process for any such dog park existing at the time of passage of these sections to become a DRS pursuant to these sections subject to all of the rights, responsibilities, obligations, and duties therein, specifically including but not limited to the probationary period in CBC 11-10.2(d)(4).

(Ord. 2004 c. 13 § 1)

11-10.2(p) Sunset Clause.

The provisions of these sections shall be effective only until the fifth (5th) anniversary of the date of passage unless extended by an order of the Boston City Council and approved by the Mayor of the City of Boston no later than the ninetieth (90th) day following the fifth (5th) anniversary of the date of passage.

The provisions of these sections may be serially extended by an order of the Boston City Council and approved by the Mayor of the City of Boston no later than the ninetieth (90th) day following the fifth (5th) anniversary of the date of extension. No individual extension of these sections may be for a period longer than five (5) years.

(Ord. 2004 c. 13 § 1)

11-10.2(q) Implementation.

The provisions of these sections shall be effective sixty (60) calendar days after passage.

(Ord. 2004 c. 13 § 1)

CHAPTER XII

PUBLIC HEALTH AND WELFARE

12-1 DEPARTMENT OF HEALTH AND HOSPITALS AND TRUSTEES OF HEALTH AND HOSPITALS.

12-1.1 Department of Health and Hospitals.

There shall be in the City a Department, known as the Department of Health and Hospitals, as provided in the Charter as that term is defined in clause Fifth of Section 7 of Chapter 4 of the General Laws.

(Ord. December 2, 1872; Ord. 1954 c. 2 § 31; Ord. 1968 c. 14 § 5; Ord. 1970 c. 3 § 1; Rev. Ord. 1961 (Sup. 1971) c. 15 § 1; CBC 1975 Ord. T12 § 1)

Cross-reference:

G.L. c. 4 § 7 c. 1.5

12-1.2 Approval for Closing or Reducing Bed Capacity of Facilities.

The Board of Health and Hospitals shall not close, or reduce the bed capacity of, any facility under its control without the prior approval of the Mayor and the City Council.

This ordinance shall be broadly construed.
(Ord. 1973 c. 1; CBC 1975 Ord. T12 § 2)

12-2 VETERANS SERVICES DEPARTMENT.

12-2.1 Veterans Benefits and Services Commissioner; Power and Duties.

There shall be in the City a Department, known as the Veterans Services Department, which shall be under the charge of an officer, known as the Veterans Benefits and Services Commissioner, who shall be a veteran as defined in Section 1 of Chapter 115 of the General Laws, shall be appointed by the Mayor for a

term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected, and shall have the powers and perform the duties from time to time conferred or imposed by statute upon the Soldiers' Relief Commissioner of Boston, Veterans' Agents appointed under Section 3 of said Chapter 115, and Directors of Veterans' Services appointed under Section 10 of said Chapter 115.

(St. 1897 c. 441; Ord. 1946 c. 9; Ord. 1954 c. 2 § 66; Rev. Ord. 1961 c. 26 § 1; CBC 1975 Ord. T12 § 50)

Cross-reference:

G.L. c. 115 §§ 1, 3, 10

12-2.2 Divisions; Appointment of Deputies.

The Veterans Benefits and Services Commissioner may divide the Veterans Services Department from time to time into such divisions as he may deem necessary for the proper conduct of the Department, and, with the written approval of the Mayor in each instance, may appoint such Deputy, and such Assistant, Veterans Benefits and Services Commissioners as he may from time to time deem necessary; provided, however, that no person other than a veteran as defined in Subsection 12-2.1 shall be eligible for such appointment.

(Rev. Ord. 1961 c. 26 § 2; CBC 1975 Ord. T12 § 51)

12-2.3 Supervision of Veterans Graves and Registration.

There shall be in the Veterans Services Department an Officer, known as the Supervisor of Veterans Graves and Registration, appointed by the Mayor, who shall have the powers and perform the duties from time to time conferred or imposed by general laws applicable to Boston on persons appointed under Section 9 of Chapter 115 of the General Laws. The Supervisor of Veterans Graves and Registration shall not be subject to the supervision or control of the Veterans Benefits and Services

Commissioner; but unless otherwise ordered by the Mayor, such supervisor shall not communicate with the Mayor, or make an annual or other report, except through such Commissioner.

(Rev. Ord. 1961 c. 26 § 3; CBC 1975 Ord. T12 § 52)

Cross-reference:

G.L. c. 115 § 9

12-3 COUNCIL ON AGING.

12-3.1 Officers; Appointment, Term, Compensation.

There shall be in the City a Board, known as the Commission on Affairs of the Elderly, consisting of an Officer, known as the Commissioner on Affairs of the Elderly, appointed by the Mayor for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected, who shall be Chairman of the Board and shall devote his whole time to the work, and ten (10) other officers, known as Associate Commissioners on Affairs of the Elderly, appointed by the Mayor (for terms of four (4) years). As the term of any such Associate Commissioner expires, his successor shall be appointed by the Mayor for a term of four (4) years. Any vacancy in the office of an Associate Commissioner shall be filled by the Mayor for the unexpired term. The Associate Commissioners shall serve without compensation.

(Ord. 1968 c. 5; Ord. 1970 c. 4 § 2; Rev. Ord. 1961 (Sup. 1971) c. 4A § 1; CBC 1975 Ord. T12 § 100)

12-3.2 Powers and Duties.

The Commission on Affairs of the Elderly shall be cognizant of Federal and State legislation concerning financial assistance, information exchange, and planning for better community programming for the elderly, and shall coordinate or carry out programs designed to meet the problems of the elderly in coordination with programs of the Commission on Aging established under Section 73 of Chapter 6 of the General Laws or its successor in function. The Commission on Affairs of the Elderly shall send to said Commission or its successor in function a copy of the annual report transmitted by it to the Mayor under subsection 5-5.34 of these ordinances.

(Ord. 1968 c. 5; Ord. 1970 c. 4 § 2; Rev. Ord. 1961 (Sup. 1971) c. 4A § 2; CBC 1975 Ord. T12 § 101)

12-3.3 Creating Centers for Older Americans.

There shall be in the City, under the auspices of the Commission on Elderly Affairs, a Division of Center for Older Americans.

Said Division shall establish centers throughout the City, to provide for and accommodate the needs of the elderly.

Said centers shall be staffed and operated by the elderly.

(Ord. 1975 c. 10; CBC 1975 Ord. T12 § 102)

12-3.4 Home Repair Program for Seniors.

There shall be in the City, within the Commission on Affairs of the Elderly, a program known as the Home Repair Program for Seniors, which shall be administered by the Commissioner. Said program shall facilitate repairs which are non-structural in nature to homes owned and occupied by elderly persons, and to units rented by elderly persons in buildings of four (4) or fewer units. The Commissioner shall make every effort to utilize technical and vocational students from the Boston Public School system to make such repairs. The Commissioner shall coordinate funding for the program from Federal, State and private sources and shall work with private, non-profit agencies which conduct similar programs to ensure that such work is fairly and equitably performed on a City-wide basis.

The program described herein shall be administered totally by the Neighborhood Development and Employment Agency (NDEA) of the City of Boston.

(Ord. 1984 c.27)

12-3.5 Senior Citizen Property Tax Work-Off Abatement.

a. *Authority and purpose.* The purpose of these provisions is to provide the senior citizens of the City of Boston with the opportunity to reduce their real estate tax bills through a program utilizing certified volunteer services. The authority for these provisions is found in M.G.L. c. 59, s. 5K.

b. *Acceptance of the local option in M.G.L. c. 59, s. 5K.* Enactment of these provisions shall be deemed an official action of the City of Boston to accept the provisions of M.G.L. c. 58, s. 5K, as amended, and the Senior Citizen Property Tax Work-Off Abatement Program ("Program") is hereby authorized and created pursuant to the provisions of these sections.

c. *Definitions.* For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

City shall mean the City of Boston.

Commission shall mean the Elderly Commission of the City of Boston or the successor thereto.

Commonwealth shall mean the Commonwealth of Massachusetts.

Participant shall mean any person participating in the program. No person is eligible to become a participant until attainment of his or her sixtieth (60th) birthday.

Program shall mean the Senior Citizen Property Tax Work-Off Abatement authorized and created by these sections and any programs created thereunder.

d. *Administration.* The Commission shall implement and administer the program. The Commission shall have the authority to promulgate rules, procedures, and regulations for implementation and administration of the program that are consistent with the intent of M.G.L. c. 59, s. 5K and consistent with the provisions of these sections including but not limited to setting any limitations on the eligibility of participants such as income limitations, asset limitations, limitations on the number of participants and the work to be performed, and any limitation of eligibility to a tax reduction on a participant's domicile. The Commission shall coordinate with the offices, agencies, commissions, departments, or other organizations of the City to receive and utilize certified volunteer services under the program.

e. *Participants.*

1. In accordance with M.G.L. c. 59, s. 5K, a participant must (i) be over sixty (60) years of age; and (ii) be the assessed owner of the property on which the tax to be abated is assessed or have acquired ownership before the certified volunteer work is performed, and if the property is subject to a trust then the participant must have legal title (i.e., have the status of a trustee for the trust) and be a beneficiary under such trust on the applicable January 1 assessment date or at the time the work is performed. Participants may earn a maximum abatement of seven hundred fifty (\$750.00) dollars per fiscal year and may not receive credit for the certified volunteer services at an hourly rate higher than the minimum wage for the Commonwealth, nor shall the hourly rate be less than the federal minimum wage unless the Commonwealth or the City is advised by the Wages and Hours Division of the United States Department of Labor that the Fair Labor Standards Act does not apply to the program.

2. The number of participants shall be limited to fifty (50) through fiscal year 2011. The maximum number of participants may be increased by written order of the Commission subsequent to permanent adoption of these sections, but in no event shall the maximum number of participants be reduced to less than fifty (50).

3. Participants shall be determined by the Commission by the chronological order of the applicants' submission of a complete and qualifying application. In no event shall a person be eligible for the program as a participant if such person's income exceeds thirty thousand (\$30,000.00) dollars for a single applicant or, if married, combined income with his/her spouse shall not exceed forty-five thousand (\$45,000.00) dollars. For purposes of this paragraph, a person sixty (60) years of age or older but less than sixty-five (65) years of age shall be considered to be sixty-five (65) years old.

f. *Certification of volunteer services.*

1. The Commission shall require the offices, agencies, commissions, departments, or other organizations of the City receiving and utilizing certified volunteer services under the program to certify to the Commission the hours of services performed by a participant.

2. The Commission must certify to the Assessor of the City the hours of services performed by a participant before the actual tax for the fiscal year is committed and must state the amount actually earned as of the date of the certification. Services performed after that date are credited toward the next fiscal year's actual tax bill to the extent consistent with the Commission's rules for the program. The Commission shall provide a copy of the certification to the participant before the tax bill is issued.

g. *Exemptions.* Abatements earned by a participant under the program shall not affect a participant's eligibility for any property tax exemptions.

h. *Annual report.*

1. In an effort to evaluate the effectiveness of the program, the Commission shall, at the close of each fiscal year, prepare a detailed report relevant to the program, including but not limited to:

(a) The name of each and every person that received an abatement under the program, the number of hours certified, and the amount of the respective abatement;

(b) The address of each and every property that received an abatement under the program and the amount of the respective abatement;

(c) The name of each and every office, agency, commission, department, or other organization that received volunteer services under the program;

(d) The total number of hours certified under the program;

(e) The total number (quantity) of abatements applied under the program;

(f) The total amount (value) of abatements applied under the program;

(g) A complete delineation of the costs associated with administering the program.

2. The annual report shall be filed with the Boston City Clerk no later than September 1 of each calendar year, and the Boston City Clerk shall file the annual report with the Boston City Council within two (2) weeks of receipt thereof.

(i) *Implementation.* The provisions of this section 12-3.5 shall be effective immediately, but, in accordance with the requirement in M.G.L. c. 59, s. 5K to explicitly state the fiscal year in which the program will be first available, the abatements may not be earned by a participant nor may the abatements be applied to any real estate taxes until the commencement of fiscal year 2008 (i.e. July 1, 2007).

(j) *Severability.* If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(k) In accordance with M.G.L. Chapter 59, Section 5K, as amended, the Senior Citizen Property Tax Work-Off Abatement is hereby adopted for a period of five (5) years, terminating at the close of Fiscal Year 2016 (i.e. June 30, 2016), but may be extended upon the approval of the mayor of the City of Boston and the City Council which shall be supplied no sooner than April 1, 2016 and no later than December 19, 2016.
(Ord. 2006 c. 1; Ord. 2007 c.5; Ord. 2011 c. 7)

12-4 COMMISSION FOR PERSONS WITH DISABILITIES.

12-4.1 Definitions.

For the purposes of this section, the following definitions shall apply unless the context otherwise requires:

Accessibility shall mean the elimination of all barriers including environmental, procedural,

attitudinal and communication barriers which can prevent persons with disabilities from equal opportunity.

Attitudinal barriers shall mean presumptions or feelings regarding physical or mental disabilities and/or persons with disabilities, which can, in themselves, obstruct the access of persons with disabilities to equal opportunities.

Effective communication methods shall mean the use of communication aids, including brailled or taped materials, readers, and machines that enlarge print for persons with visual limitations. Such methods shall also include the use of certified interpreters for persons who are deaf and tele-communication devices for those who have hearing or speaking limitations.

Major life activity shall mean a function including, but not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Mental impairment shall mean any mental or psychological disorder including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Persons with disabilities shall mean persons who (1) have a physical, mental or sensory impairment which substantially limits one or more of such person's major life activities; or (2) have a record of such impairment; or (3) are regarded as having such an impairment.

Physical impairment shall mean any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems or organs: the neurological, musculoskeletal, cardiovascular, reproductive, digestive, genito-urinary, skin, endocrine, and hemic and lymphatic body systems; special sense organs and respiratory organs, including speech organs.

Section 504 shall mean Section 504 of the Rehabilitation Act of 1973, as amended (29 USCS S. 794).

Sensory impairment shall mean any sensory disorder, condition, or anatomical loss of the special sense organs.

(Ord. 1971 c. 3; Rev. Ord. 1961 (Sup. 1971) c. 20A § 1, CBC 1975 Ord. T12 § 150; Ord. 1987 c. 13 § 1)

12-4.2 Purpose.

The Commission's purpose is to facilitate full and equal participation in all aspects of life by all persons with disabilities in the City of Boston. To accomplish its purpose, the Commission will aim to reduce the architectural procedural attitudinal and communication barriers which affect persons with disabilities.

(Ord. 1971 c. 3; Rev. Ord. 1961 (Sup. 1971) c. 20A § 2; CBC 1975 Ord. T12 § 151; Ord. 1987 c. 13 § 1)

12-4.3 Composition, Appointment, Term and Compensation.

There shall be in the City a Board known as the Commission for Persons with Disabilities, consisting of an officer known as the Commissioner for Persons with Commission, eleven (11) other members, who shall be associate members of the Commission.

The Commissioner and the associate members shall be appointed by the Mayor for the term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected, and each shall serve until his/her successor is duly appointed.

The Commissioner shall be a full-time employee of the City and shall be paid compensation. The associate members shall serve without compensation, but each shall be entitled to reimbursement for his/her reasonable expenses actually and necessarily incurred in the performance of his/her duties as an associate commissioner. The associate members shall be considered special municipal employees for the purposes of G.L. c. 268A.

The associate members shall be qualified by training, experience and demonstrated interest in the rights and equal opportunities of persons with disabilities. A majority of the associate members shall be persons with disabilities, with at least one being blind or legally blind, one being deaf or hard of hearing, and the others, comprising the majority,

being persons with representative types of disabilities. The associate members shall be representative of the community in terms of race, religion, age and gender. (Ord. 1987 c. 13 § 1)

12-4.4 Powers and Duties of the Commission.

The Commission shall have the following powers and duties:

a. To develop and promote information and referral services regarding programs, services, rights, accessibility and opportunities for persons with disabilities which foster dignity and self-determination;

b. To make recommendations and to provide coordination and support to City Departments and agencies concerning public policies, programs, services and regulations as they affect or may affect persons with disabilities;

c. To inform City Departments and agencies of Federal, State and City funds available for expanding or improving services and programs for persons with disabilities;

d. To work toward the goal of safe, decent, affordable, accessible housing for persons with disabilities and their families. The Commission shall work with Federal, State, City, private and public agencies and resources to this end;

e. To provide technical assistance to the City's Division of Personnel as to how to provide reasonable accommodation, auxiliary aids, and general access to the employment process for persons with disabilities. Such technical assistance shall include, but not be limited to, reviewing job specifications, application forms, and procedures relating to hiring, promotion and firing, including (i) physical accessibility of the application process; (ii) program accessibility, including the availability of effective communication methods; (iii) availability, use and publicity of affirmative action plans; and (iv) review of personnel testing procedures;

f. To address the transportation needs of persons with disabilities in the City and, in concert with the Mayor's representative on the Massachusetts Bay Transportation Authority Advisory Committee,

representatives from the Massachusetts Bay Transportation Authority (MBTA), the Massachusetts Port Authority (Massport) and the Executive Office of Transportation and Construction (EOTC), to develop programs for meeting the transportation needs of persons with disabilities, and to monitor any policies related thereto;

g. To implement, in conjunction with the City's Department of Inspectional Services, Chapter 40 of the Ordinances of 1979, entitled "Promoting Access to Public Buildings by the Physically Handicapped", which is intended to promote full access to public buildings by persons with disabilities;

h. To work for the advancement of the legal and civil rights of all persons with disabilities in the City of Boston;

i. To coordinate City departmental compliance with Section 504 and all Federal, State, and City rules and regulations requiring programs, activities and services to be readily accessible to and usable by persons with disabilities;

j. To monitor compliance with City departmental self-evaluation and transition plans and to make recommendations to the Mayor for corrective action as required;

k. To develop training and development programs for City personnel to increase their awareness of real and artificial barriers faced by persons with disabilities;

l. To administer, in cooperation with the City's Transportation Department, the Temporary Identification Card Program, established by City of Boston Code, Ordinances, Chapter 6, Section 6-7.3; and

m. To apply for, accept and expend, subject to applicable laws, grants or gifts of funds and other property;

n. To adopt rules and regulations for the conduct of Commission business, which shall be approved as to form by the Corporation Counsel, approved and signed by the Mayor, and filed with the City Clerk.

(Ord. 1987 c. 13, § 1)

Cross-reference:
ss 5-5.32

12-4.5 Powers and Duties of the Commissioner.

The Commissioner shall have the following specific powers and duties:

a. To hire staff for the Commission consistent with the Commission's purpose. The Commissioner shall hire, at a minimum, a Director for Civil Rights, who shall also be the City's 504 Coordinator;

b. To act as spokesperson for the Commission;

c. To participate in and oversee the day-to-day affairs for the Commission;

d. To perform all the functions of a department head including, but not limited to and subject to applicable laws, entering into agreements with individuals or entities and preparing the annual budget.

(Ord. 1987 c. 13, § 1)

12-4.6 Powers and Duties of the Associate Members.

The associate members shall have the following specific powers and duties:

a. To advise the Commissioner on policy and planning and the need for programs and services for persons with disabilities;

b. To consult with the Commissioner in evaluating and modifying the City's policies as they relate to Federal, State and City laws and regulations concerning the civil rights of persons with disabilities;

c. To assist the Commissioner in establishing priorities for the Commission's activities; and

d. To review, at least annually, the programs, policies and budget of the Commission and to make recommendations as to such programs, policies and budget.

(Ord. 1987 c. 13, § 1)

12-4.7 Responsibilities of City Agencies.

The services of all City departments, agencies, commissions and offices shall be made reasonably

available to the Commission for effectuating the policy of this section. The head of any City Department, Agency, Commission or Office shall provide information in the possession of such Department, Agency, Commission or Office when the Commission so requests and where such information relates to the functions and responsibilities of the Commission. Such information may include departmental self-evaluation and transition plans pursuant to Section 504 and its implementing regulations.

Each Department Head shall designate a liaison to the Commission. The responsibilities of each liaison shall include:

a. Attendance at trainings and work group sessions as requested; and

b. Coordination of Section 504 of the Rehabilitation Act and/or other disability related civil rights mandates, including monitoring assistance and information distribution.

(Ord. 1987 c. 13, § 1)

12-4.8 Severability.

If any provision or subsection of this section shall be held to be invalid, such provision or subsection shall be considered separately and apart from the remaining provisions or subsections of this section, which shall remain in full force and effect.

(Ord. 1987 c. 13, § 2)

12-4.9 Effective Date.

This section shall take effect upon passage.

(Ord. 1987 c. 13, § 3)

12-5 COMMISSION ON MENTAL RETARDATION.

12-5.1 Composition of Board.

There shall be in the City a Board, known as the Commission on Mental Retardation, consisting of the Commissioner of Parks and Recreation and the Commissioner of Health and Hospitals, ex officio, or their respective designees, and thirteen (13) persons appointed by the Mayor, each for a term expiring on the first Monday of the January following the next

biennial municipal election at which a Mayor is elected. In making the appointments to be made by him, the Mayor shall give consideration to the appointment of persons associated with, or representative of, the Division of Social and Rehabilitation Services in the Federal Department of Health, Education and Welfare; the Area Director for Community Mental Health and Retardation Area VI in the Commonwealth, the Division of Special Education in the City's School Department, and the Greater Boston Association for Retarded Children; and nine (9) inhabitants of the City who are parents of retarded children and indicate a willingness to serve on the Board.

The Mayor shall, from time to time, designate one of the members of the Board as Chairman. The Vice-Chairman shall be elected by the Board by majority vote. The Board may appoint a clerical assistant.

All members of the Board shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. (Ord. 1970 c. 1; Ord. 1971 c. 5; Rev. Ord. 1961 (Sup. 1971) c. 18A § 1; CBC 1975 Ord. T12 § 200)

Cross-reference:

Statutes, Title 12 § 1

12-5.2 Duties.

It shall be the duty of the Commission on Mental Retardation to meet at least once each month; to coordinate to the fullest possible extent the work of all public and private agencies dealing with the problems besetting the parents of children who are mentally retarded and assisting retarded children in any manner; to bring about a continual dialogue and exchange of views between Federal, State, and local agencies concerned with the effective administration of programs for the mentally retarded; to conduct either independently or in conjunction with the School Committee of the City or any other appropriate agency such education programs as the Board deems necessary; to coordinate the existing recreational programs for retarded children and to initiate where appropriate new and innovative recreational programs for retarded children. The board shall issue an annual report of its activities to the Mayor and City Council and shall at all times be free to suggest new programs for the City and request proper financing for such

programs as the Board feels feasible for the program and the City's needs in the area of mental retardation. (Ord. 1970 c. 1; Rev. Ord. 1961 (Sup. 1971) c. 18A § 2; CBC 1975 Ord. T12 § 201)

Cross-reference:

Ord. ss 5-5.32; Statutes, Title 7 §§ 109, 110

12-6 YOUTH ACTIVITIES COMMISSION AND CORPORATION.

12-6.1 Youth Services Commission.

a. *Composition.* There shall be in the City of Boston a Youth Services Commission consisting of the Superintendent of Schools, the Commissioner of Health and Hospitals, the Police Commissioner, the Commissioner of Parks and Recreation, the director of the Community School program and the director of the Mayor's Office of Job and Community Services, ex officio or their respective designees, the Chairman of the City Council Special Committee on Youth Services, ex officio, and eight (8) members appointed by the Mayor each for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected. In making appointments to the commission, the Mayor shall appoint persons with demonstrated experience in counseling, advising or employing youth; experience as a supervisor or director of a youth program or agency in Boston; experience in traditional or alternative educational programs for youth; or experience in the delivery of health or drug abuse prevention services to children or adolescents. At least one of the Mayor's appointees to the commission shall be a young person between the ages of fifteen (16) and nineteen (19). At least one of the Mayor's appointees to the Commission shall be a parent of a child or children under age eighteen (18). At least one of the Mayor's appointees shall be a Boston Housing Authority tenant.

The Mayor shall designate one member of the Commission as Chairman. All members shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

b. *Powers and Duties.* The Commission shall evaluate the delivery of youth services in Boston; shall advise the Mayor and the City Council on ways to

expand and coordinate counseling, employment, health, educational and recreational programs for the youth in Boston and to minimize drug abuse and violence among children and adolescents; shall work to coordinate the delivery of youth services by the various departments and agencies of the City; shall work to coordinate the delivery of youth services in Boston by other governmental and private agencies; shall work to coordinate and encourage private sponsorship and investment in youth programs in Boston and shall direct and oversee the annual compilation and publication of a comprehensive directory of youth services in Boston.
(Ord. 1989 c. 10 §§ 1, 2)

12-7 DRUG ABUSE COORDINATING COUNCIL.

12-7.1 Composition of Board.

There shall be in the City a Board, known as the Coordinating Council on Drug Abuse, consisting of the Corporation Counsel, the Commissioner of Health and Hospitals, the Penal Institutions Commissioner, the Police Commissioner and the Chairman of the Youth Activities Commission, ex officio, or their respective designees, and sixteen (16) persons appointed by the Mayor each for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected. In making the appointments to be made by him, the Mayor shall give consideration to the appointment of persons associated with, or representative of, the Federal Bureau of Narcotics and Dangerous Drugs, the Division of Food and Drugs in the State Department of Public Health, the probation officers of the Municipal Court of the City of Boston, the Boston Juvenile Court, and the other municipal and district courts in the City, the public, and the nonpublic, schools in the City, the Model Cities Drug Program, the Boston Teachers Union, the Drug Treatment and Drug Education Committee of United Community Services of Metropolitan Boston, and the project currently coordinated by the Boston University Mental Health Center and the Boston College-Urban League Joint Center for Intercity Change. At least two (2) of the persons appointed by the Mayor shall be doctors or psychologists who have dealt with the medical and psychological problems of youth in Boston.

The Mayor shall from time to time designate one of the members of the Board as Chairman and another as Vice-Chairman. The Mayor shall designate a full-time executive secretary of the Board. The Board may appoint clerical assistance.

All members of the Board shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. (Ord. 1969 c. 17; Rev. Ord. 1961 (Sup. 1971) c. 10C § 1; CBC 1975 Ord. T12 § 300)

12-7.2 Duties.

It shall be the duty of the Coordinating Council on Drug Abuse to meet at least once a month; to coordinate to the fullest possible extent the work of all public and private agencies dealing with drug abuse; to effect an ongoing dialogue and exchange of views between such agencies; to conduct, either independently or in conjunction with the School Committee of the City, such drug education programs as said Council deems advisable; to conduct studies, investigations and research into the sources and use of harmful drugs and narcotic drugs as those terms are respectively defined in Section 187A and Section 197 of Chapter 94 of the General Laws, as now or hereafter amended; to pursue a course of action to insure that all laws governing the sale, possession and use of both harmful and narcotic drugs are a duly enforced; and by the use of such media of communication as said Council shall from time to time deem appropriate, keep the inhabitants of the City informed respecting the use of both harmful and narcotic drugs.

(Rev. Ord. 1961 (Sup. 1971) c. 10C § 2; CBC 1975 Ord. T12 § 301)

Cross-reference:

G.L. c. 94 §§ 187A, 197

12-8 PENAL INSTITUTIONS DEPARTMENT.

Editor's Note:

Chapter 138 of the Statutes of 1991, sections 356-363, abolished the City of Boston Penal Institutions Department and the post of Penal Institutions Commissioner. In addition, the Deer Island House of Corrections mentioned in the ordinance was subsequently decommissioned upon the opening of the new facility.

12-8.1 Powers and Duties of Commissioner.

The Penal Institutions Department shall be under the charge of the Penal Institutions Commissioner, who shall exercise the powers and perform the duties provided by statute; and shall have the charge and control of Deer Island and the House of Correction at Deer Island.

(St. 1895 c. 449 § 14; St. 1896 c. 536 § 9; St. 1897 c. 395 § 5; St. 1928 c. 389; Ord. 1924 c. 9; Rev. Ord. 1961 c. 20 § 1; CBC 1975 Ord. T12 § 350)

12-8.2 House of Correction at Deer Island.

The Penal Institutions Commissioner shall exercise the powers and perform the duties in regard to the House of Correction at Deer Island and the prisoners committed thereto formerly exercised and performed by the Institutions Commissioner.

(Rev. Ord. 1961 c. 20 § 2; CBC 1975 Ord. T12 § 351)

12-8.3 Organization of Department.

The Penal Institutions Commissioner shall be the executive and administrative head of the Department and may organize said Department as he may find necessary for its proper conduct.

(Rev. Ord. 1961 c. 20 § 3; CBC 1975 Ord. T12 § 352)

Cross-reference:

Ord. ss 5-5.33

12-8.4 Annual Report.

The Commissioner shall, in his annual report, include a statement of the expenditures and receipts of each institution for the preceding financial year, giving the condition of each, with the number of inmates admitted thereto and discharged therefrom, the births and deaths therein, and the number of persons remaining in the same.

(Rev. Ord. 1961 c. 20 § 4; CBC 1975 Ord. T12 § 353)

12-9 HUMAN RIGHTS.

12-9.1 Policy.

It is the policy of the City of Boston to assure that every resident shall have equal access to and benefit from all public services, to protect every resident in the understanding and respect among all residents of the City. It is clear that behavior which denies equal treatment to any of our citizens as a result of their religious creed, race, color, sex, gender identity or expression, age, disability, national origin, ex-offender status, prior psychiatric treatment, sexual orientation, military status, marital status or parental status, or which is sexually or racially harassing undermines civil order and deprives persons of the benefits of a free and open society. Nothing in this ordinance shall be construed as supporting or advocating any partnership, religious view or lifestyle. To the contrary, it is the intention of this ordinance that all persons be treated fairly and equally and it is the expressed intent of this ordinance guarantee to all of our citizens fair and equal treatment under law.

(Ord. 1984 c. 16, c. 17, c. 40; Ord. 2002 c. 9)

12-9.2 Definitions.

As used in this section the following terms shall have the meanings as indicated unless a different meaning clearly appears from the context:

Age shall mean any persons between the ages of forty (40) and sixty-five (65).

Bona fide occupational qualification shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status, or source of income which is a requirement for employment and has been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts general Law.

Bonding transaction shall mean the furnishing of a performance, fiduciary or other form of bond to any person.

Commission shall mean the Human Rights Commission.

Credit transaction shall mean the open or closed end grant, extension, denial or termination of credit to any individual.

Disability shall mean a condition which causes a physical or mental impairment which limits, or is regarded as limiting one or more major life activity.

Educational facility shall mean any person, whether organized for profit or not-for-profit, that holds itself out to the public as providing instruction or training in the arts, sciences, trade or any other area of learning.

Employee shall mean any individual who is engaged to work for or under the direction or control of another for monetary or other valuable consideration, but shall not include any individual employed by her or his parents, spouse or children.

Employer shall mean any individual, partnership, association, corporation, trustees, public charity, foundation, political subdivision, board, department, commission, agency or any other person which engages and controls the services of an individual in the City of Boston in exchange for monetary or other valuable consideration, except that it shall not include any employer with six (6) or less persons in its employ, exclusive of parents, spouse or children, nor does it include a club exclusively social, or a fraternal association or religious organization, incorporated or unincorporated, if such fraternal association or religious organization is not incorporated for profit and if the primary function thereof is religious or fraternal.

Employment agency shall mean and include any person undertaking to procure employees or opportunities to work for potential employees.

Ex-offender status shall mean (i) the condition of having been arrested, detained, or accused of any violation of law which no conviction resulted, or (ii) a final conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbing the peace, or (iii) any conviction of a misdemeanor where the date of such conviction or completion of any period of incarceration resulting therefrom, which ever date is later, occurred five (5) or more years prior to the date of the exercise of any right or privilege under this Chapter, unless such person has

been convicted of any offense within five (5) years immediately preceding the exercise of any right or privilege under this Chapter.

Executive Director shall mean the Executive Director of the Boston Human Rights Commission as established by this Chapter.

Gender identity or expression shall mean and include a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression whether or not that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with a person's sex at birth.

Insurance transactions shall mean the sale, grant or other provision of insurance to any person.

Labor organization shall mean any organization which exists and is constituted for the purpose, in whole or part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

Marital status shall mean the actual condition of being or having been married, separated or divorced or the condition of being single.

Military status shall mean the condition of being, or having been in the services of the military.

Parental status shall mean the condition of having minor or disabled children.

Person shall mean and include one or more individuals, partnerships, associations, corporations, agencies, legal representatives, trustees, trustees in bankruptcy and receivers, the City and all political subdivisions, boards and commissions provided, however, "person" shall not be applied to an individual acting in a purely private transaction.

Prior psychiatric treatment shall mean an actual or supposed mental impairment of a person caused by illness, injury, birth, professional treatment or hospitalization.

Public accommodation and service shall mean any place, business, facility or other establishment of whatever kind, or agency, whether owned privately or

by a public agency which caters or offers services, facilities or goods to or is intended for the use or convenience of the general public whether for a charge or fee or not. Nothing contained herein shall be construed to include or apply to any place, business, facility or other establishment which is by its nature distinctly private, except that when such establishment caters or offers services to the general public, it shall be deemed a public accommodation during such period.

Respondent shall mean a person against whom a complaint has been filed pursuant to this Chapter.

Sexual orientation shall mean actual or supposed homosexuality, heterosexuality, or bisexuality by orientation or practice, including but not limited to an orientation or practice, including but not limited to an orientation that may be presumed on the basis of mannerisms, physical characteristics, manner of dress or deportment.

Source of income shall mean the manner or means by which an individual supports herself or himself, and his or her dependents, except that in this Chapter it shall not include any criminal activity from which a source of income is derived.

(Ord. 1984 c. 16, c. 17, c. 40; Ord. 2002 c. 9)

12-9.3 Discriminatory Practices Regarding Employment.

It shall be an unlawful practice and thereby deemed a violation of this Chapter for a person directly or indirectly to refuse to hire, employ, classify or upgrade, to bar or to discharge from employment, or otherwise discriminate against any person in the terms, conditions, or privileges of employment, including compensation, because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status or source of income of such individual, unless based upon a *bona fide* occupational qualification. A person who asserts that a discriminatory employment practice is justified because of a *bona fide* occupational qualification which has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws shall have the burden of showing that the discrimination is in fact a necessary result of a *bona fide* occupational qualification and that

there exists no less discriminatory means of satisfying the occupational qualification.

It shall further be an unlawful practice and thereby deemed a violation of this Chapter for any employment agency, directly or indirectly, to fail or refuse to classify properly or refer for employment or otherwise discriminate against any person because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status or source of income of such person. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this section with respect to such specialized services for the elderly or disabled, provided that such specialized services not discriminate among the elderly or disabled on the basis of other discriminatory criteria.

Nothing herein shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, and which limits membership, enrollment, admission, or participation to members of that religion, from giving preference in hiring or employment to members of the same religion, or employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria.

(Ord. 1984 c. 16; Ord. 2002 c. 9)

12-9.4 Discriminatory Practices Regarding Labor Organizations.

It shall be an unlawful practice and thereby deemed a violation of this Chapter for a labor organization directly or indirectly to refuse to admit to membership, apprenticeship, training or classification or to discriminate otherwise against any individual, absent a *bona fide* occupational reason or other reasonable cause, because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status or source of income of such individuals.

(Ord. 1984 c. 16; Ord. 2002 c. 9)

12-9.5 Discriminatory Practices Regarding Credit Transactions, Bonding and Insurance.

It shall be an unlawful practice and thereby deemed a violation of this Chapter for any bank, financial institution, or other credit granting or approving institution or person, including any retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval or extension of any form of loan or credit to any person because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status or source of income of such person. It shall not be an unlawful discriminatory practice under this subsection to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness such as amount and source of income, age, employment history, credit references, and the number and age of dependents.

Further it shall be an unlawful practice and thereby deemed a violation of this ordinance for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding any persons because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, prior psychiatric treatment, military status or source of income of such individual.

Further it shall be an unlawful practice and thereby deemed a violation of this ordinance for any insurance company to refuse to insure any person or discriminate in the terms of insuring any individual because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, prior psychiatric treatment, military status, ex-offender status or source of income of such person, unless based on a *bona fide* actuarially determined insurance factor relative to the age or health of the person which affects the risk for which such insurance is being sought.

(Ord. 1984 c. 16; Ord. 2002 c. 9)

12-9.6 Discriminatory Practices Regarding Education.

It shall be unlawful practice and thereby deemed a violation of this Chapter for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, opportunities, and curriculum offered to any person, absent a showing of reasonable cause as to why such discrimination may be warranted because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, prior psychiatric treatment, military status, parental status, ex-offender status or source of income of such person.

The following practices shall be exempt from the operation of this section: the selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion; the establishment or maintenance by an educational facility of a school or program limited to the members of only one sex or otherwise segregated by sex, consistent however, with Federal and State statutes, the establishment by an education facility of minimum or maximum age requirements for any educational program; and the establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals who do not speak English, or the economically impoverished.

(Ord. 1984 c. 16; Ord. 2002 c. 9)

12-9.7 Discriminatory Practices Regarding Public Accommodations and Services.

It shall be an unlawful practice and thereby deemed a violation of this Chapter for any person that owns, leases, rents, operates, manages, or in any manner controls a public accommodation directly or indirectly, or who provides a public service, to withhold, deny, curtail or in any manner limit or discriminate with respect to the full use of such public accommodation or service because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, parental status, prior psychiatric treatment, military status, ex-offender status or source of income of such individual, unless such public accommodation or service specifically designated for the exclusive use of

the elderly or disabled, provided, however, nothing contained herein shall permit the use of restrooms, baths, showers, dressing rooms, or other private accommodations which are separated by sex to be used to by the opposite sex, except it shall be an unlawful and discriminatory practice to prevent or prohibit the use of restrooms, baths, showers, dressing rooms, or other private accommodations based on the gender identity publicly and exclusively expressed or asserted by the person seeking to use such restrooms, baths, showers, dressing rooms, or other private accommodations.

(Ord. 1984 C 16, c. 30; Ord. 2002 c. 9)

12-9.8 Other Unlawful Practices.

It shall be an unlawful practice and thereby deemed a violation of this Chapter for any person to discriminate against any individual because he or she opposed any practice made unlawful by this Chapter, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Chapter.

It shall be an unlawful practice and thereby deemed a violation of this Chapter for any person to aid or abet another in the violation of any provision of this Chapter.

It shall be an unlawful practice and thereby deemed a violation of this chapter to cause or attempt to cause any person to discriminate against an individual in violation of this Chapter.

(Ord. 1984 c. 16)

12-9.9 Establishment of the Boston Human Rights Commission, Executive Director, Staff.

There shall be in the City a Commission known as the Boston Human Rights Commission, hereinafter referred to as the Commission. The Commission shall be comprised of seven (7) members, to be known as Commissioners, each appointed by the Mayor. The Commissioners shall each serve a term of three (3) years, provided, however, that of the members first appointed to the Commission, three (3) shall be appointed for a term of one year, two (2) shall be appointed for a term of two (2) years and two (2) shall be appointed for a term of three (3) years. Thereafter the Mayor shall appoint each successor to a term of three (3) years. Any vacancy occurring otherwise than

by expiration of term shall be filled by appointment by the Mayor for the unexpired term.

The Mayor shall appoint annually a Commissioner as the Chairperson of the Commission. Four (4) Commissioners shall constitute a quorum for the purposes of conducting the business of the Commission. Four (4) votes shall be required to pass any Commission decision.

The Commissioners shall be subject to the residency and voting requirements appearing in the City of Boston Code, Ord. Subsection 5-5.2, notwithstanding the exception contained therein. The Commissioners shall be classified special municipal employees for the purposes of Chapter 268A of the General Laws. The Commissioners shall serve without compensation, but each Commissioner shall be entitled to his or her reasonable expenses actually and necessarily incurred in the performance of her or his duties as Commissioner. These expenditures shall be paid from the budget of the Commission. The Commission staff shall consist of an Executive Director, and such personnel as the Commission, upon recommendation of the Executive Director, may deem expedient subject to appropriation.

The Executive Director shall be appointed by and serve at the pleasure of the Mayor. The Mayor shall determine the rate of compensation for the Executive Director.

(Ord. 1984 c. 16, c. 17)

12-9.10 Powers and Duties of Executive Director.

The Executive Director shall have the powers of a department head except for those powers explicitly conveyed to the Commission by this Chapter and shall be responsible for carrying out the policies and decisions of the Commission.

The Executive Director shall have the power and duty to make investigations of discriminatory practices which appear to be in violation of this Chapter and to file complaints with the Commission based upon findings of fact, and conclusions of law only, where there is a probable cause that a violation of this Chapter has occurred. The Executive Director shall be required to appear quarterly before the City Council to give a report of the Commission's activities and to answer questions of the Council. The Executive Director shall have the power to attempt to mediate or

conciliate any complaint of alleged discrimination under this ordinance where there is probable cause for such complaint. The Executive Director shall further file, on conforming forms, all complaints with the Massachusetts Commission Against Discrimination and the Equal Employment Opportunity Commission where such complaints relate to discrimination under the jurisdiction of the MCAD and/or the EEOC. The Executive Director shall fix the compensation of the Commission staff within the budgetary limits of the Commission after appropriation by the City Council. (Ord. 1984 c. 16)

12-9.11 Powers and Duties of the Commission.

The Commission shall study the problems of discrimination in the City and shall make such recommendations to the Mayor and the City Council, as in its judgment will effectuate the policy of this Chapter.

The Commission may, on its own behalf, issue a complaint, upon a reasonable belief that a person has engaged in an unlawful discriminatory practice.

The Commission shall have the power to conduct hearings, subpoena witnesses, compel their attendance, including but not limited to filing contempt proceedings with Superior Court, administer oaths, take the testimony of any person under oath and in connection therewith to require the production for examination of any documents, books, papers, or evidence relating to any matter in question or under investigation by the Commission. The Commission may delegate any of its hearing powers to individual Commissioners or members of the Commission staff. Subpoena power shall be exercised by the Chairperson of the Commission, or his or her designee, upon majority vote of the Commission. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be represented by counsel.

The Commission shall have the power to issue publications, results of investigations and research as, in its judgment, will promote good will and minimize or eliminate prejudice, intolerance, bigotry or discrimination and disorder occasioned thereby.

The Commission shall, upon the Executive Director's failure to conciliate a complaint, submit a written report of its findings and recommendations to the Mayor with copies of this report filed with the City Council, the Corporation Counsel, the Massachusetts Commission Against Discrimination (on matters within its jurisdiction), and to any other governmental agency or court having jurisdiction.

Further, the Commission has the power to adopt rules and regulations which it deems necessary to the function of the Commission, provided, however, that all such rules and regulations shall, for a thirty (30) day period following their adoption by the Commission, be held for review and comment by the City Council in an open public hearing, and may be referred to the Corporation Counsel by a vote of a majority of members of the City Council for a ruling on the appropriateness of such rules or regulations. The Commission may recommend to the Mayor and or the City Council additional legislation to aid in the carrying out of the purposes of this Chapter. (Ord. 1984 c. 16, c. 17, c. 18)

12-9.12 Procedures.

Any person claiming to be aggrieved by an alleged discriminatory practice under this ordinance or claiming to represent an aggrieved person, may, by her or himself or her or his attorney, file with the Commission a verified written complaint. The Complaint shall state the name and address of the person alleged to have committed the discriminatory practice and shall set forth in detail the particular circumstances. The complaint shall be amended to include additional information as required by the Commission. No complaint shall be considered unless it is filed with the Commission within one hundred eighty (180) days after the occurrence of the alleged discriminatory practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either and or both agencies.

The Executive Director shall forthwith transmit a copy of the complaint to the respondent by hand or by certified mail return receipt requested.

The Commission shall not accept a complaint from any person who has filed a complaint with the

Massachusetts Commission Against Discrimination with respect to the same grievance unless requested by the Massachusetts Commission Against Discrimination to do so.

Upon receipt of a duly filed complaint, the Executive Director shall cause a prompt investigation to be made in connection therewith. After completing the investigation, the Executive Director shall file a written report containing a recommendation concerning the disposition of the matter with the Commission.

Under no circumstances may a report reflect bias where a respondent has exercised his or her constitutional rights relative to providing testimony which may tend to incriminate one's self. Neither may the Commission proceed with a complaint unless there is sufficient probable cause that a violation exists, such probable cause being based on evidence which will stand the test of court scrutiny as to its merit and substance. If after a review of a complaint the Commission finds that no probable cause exists for crediting the allegations of the complaint, the Commission shall order the Executive Director to issue and transmit to complainant and the respondent, by hand or certified mail, return receipt requested, an order dismissing the allegations. The Executive Director on behalf of the Commission shall also issue a notice to both complainant and respondent a copy of federal and state laws governing legal actions one may pursue relative to frivolous actions. If the Commission shall determine after such investigation or review that probable cause exists for crediting the allegations of the complaint, the Commission shall order the Executive Director to immediately endeavor to eliminate the discriminatory practice complained of through persuasion, conciliation and negotiation. Nothing said or done during and as part of such conciliation efforts shall be made public or used as evidence in subsequent proceedings unless each of the interested parties agree thereto in writing. If conciliation succeeds, the terms of the conciliation agreement shall be reduced to writing and signed by or on behalf of the parties and the Commission. Conciliation agreements may be made public, but such public disclosure shall not reveal the identities of the parties involved, except with the agreement of all respondents.

In case of failure to reach a conciliation agreement to eliminate a discriminatory practice within thirty (30) days after a determination of probable cause, or in advance thereof if the Commission believes the circumstances so warrant, or if probable cause exists that a conciliation agreement has been violated, the Executive Director shall cause to be issued and served in the name of the Commission, a written notice together with a copy of such complaint, as the same may have been amended, requiring the respondent to answer the charges of such complaint at a hearing before the Commission, at a time and place to be specified in such notice. The respondent may file in person or otherwise a verified written answer to the complaint and appear at such a hearing in person, with or without counsel.

The Executive Director or his or her designee shall present evidence at the hearing. The Commission shall not be bound by the strict rules of evidence prevailing in courts of law. The testimony, however, shall be under oath and shall be recorded upon the request of either party. Each party respondent may appear at such hearing in person or by a duly authorized representative. Each party may present testimony and evidence.

Each party shall have the right to cross-examine adverse witnesses.

If upon all the evidence, the Commission finds that a respondent has not engaged in any such discriminatory practice or violation of a conciliation agreement, the Commission shall issue and transmit to the complainant and the respondent, by hand or by certified mail return receipt requested, an order dismissing that complaint as to such respondent.

If, upon all the evidence presented at the hearing, the Commission determines that a respondent has engaged in any discriminatory practice as defined in this ordinance or has violated a conciliation agreement, the Commission shall issue an order stating its findings of fact and order for resolving the complaint.

The Commission shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.

If a finding is made that a respondent has engaged in a discriminatory practice or violated a conciliation agreement, the Commission shall make a written report of its findings and recommendations to the Mayor and the City Council, with a copy to the Corporation Counsel, on any matter within his or her jurisdiction for review and implementation or to the Massachusetts Commission Against Discrimination on any matter in question, and in all cases, urging and using its best efforts to bring about compliance with the Commission's order. In the conduct of any mediation, investigation, hearing, or representation of any conciliation, complaint, the Commission may call upon not only the members and staff of the Commission, but to the extent practicable, any City department or agency.

If a finding is made that a respondent, who has engaged in a discriminatory practice or violation of a conciliation agreement, is a City contractor or subcontractor performing under municipally funded or assisted contracts, the Mayor shall cause said contracts or subcontracts to be immediately reviewed, and may suspend or revoke said contracts or subcontracts, or otherwise employ all available means to bring the contractor or subcontractor into immediate compliance.

If a finding is made that a respondent, who has engaged in a discriminatory practice or violation of a conciliation agreement, is a licensee, who has obtained a license to operate from the City of Boston or agency thereof, the Mayor shall cause said license to be immediately reviewed, and may suspend or revoke said license, or otherwise employ all available means to bring the licensee into immediate compliance.

Any person aggrieved by a finding of the Commission is entitled to reconsideration upon written summary and transcripts by the full Commission. Written request for such rehearing must be filed with the Commission within seven (7) days of receipt of the Commission's written report. Upon receipt of a request for reconsideration the Commission shall notify all interested parties who shall have seven (7) days to submit any documents, reports or summaries to the Commission. The full Commission shall meet in executive session to review the complaint, summaries, written reports, transcripts, documents or other material, within sixty (60) days of the receipt of the request for reconsideration.

A certified copy of any report, finding or order of the Commission may be admitted as evidence in any court of competent jurisdiction.

Nothing herein shall in any way violate open hearing laws of the Commonwealth of Massachusetts or the Federal Freedom of Information Act.
(Ord. 1984 c. 16, c. 17)

12-9.13 Construction of Ordinance.

The provisions of this ordinance shall be construed for the accomplishment of the purposes hereof. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the United States Government or of the Commonwealth.
(Ord. 1984 c. 16)

12-9.14 Effect of State and Federal Laws.

Nothing in this ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this ordinance.

Any remedies provided by this ordinance shall be cumulative with any other remedies provided by State or Federal law.
(Ord. 1984 c. 16)

12-9.15 Severability.

If any provision or section of this Chapter shall be held to be invalid by a court of competent jurisdiction, then such provision or section be considered separately and apart from the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
(Ord. 1984 c. 16)

12-9A PROTECTION OF FAMILIES.

12-9A.1 Definitions.

When used in this Chapter, and for purposes of providing only those rights specified in this Chapter:

a. *Domestic partnership* shall mean two (2) persons who meet the following criteria and affirm that:

1. They share basic living expenses;
2. They assume responsibility for the welfare of their partner and any dependents registered pursuant to subsection 12-9A.2;
3. They are at least eighteen (18) years of age;
4. They are competent to enter into a contract;
5. They declare that they are each other's sole domestic partner;
6. They are not married to anyone nor related to each other by blood closer than would bar marriage in the Commonwealth of Massachusetts;
7. They shall notify the City Clerk of any change in the status of their domestic partnership; and
8. They register their domestic partnership as set forth in subsection 12-9A.2 of this section; and their dependents as registered pursuant to subsection 12-9A.2.

b. *Dependent* shall mean a person registered pursuant to subsection 12-9A.2, who has not registered as a domestic partner and who receives significant financial or significant in-kind assistance toward her or his caretaking or costs of food, shelter, utilities, and essential household goods from the domestic partnership.

c. *Basic living expenses* shall mean the cost of food, shelter, utilities and essential household goods. The individuals need not contribute equally to the cost of these expenses. Labor or services in kind shall be recognized as contributions to basic living expenses.

d. *Assume Responsibility for the Welfare of* shall mean assume an obligation to provide, if necessary, for a person's basic living expenses and to assume joint responsibility for any other expenses of that person which arise out of a program or benefit for which that person qualified because of a statement

filed pursuant to this section, subject to the limitations contained in subsection 12-9A.5 of this section.

e. *Domestic partner* shall mean a person who meets the criteria set out in subsection 12-9A.1a. of this section and registers pursuant to subsection 12-9A.2 of this section;
(Ord. 1993 c. 12 § 1)

12-9A.2 Registration.

a. *Statement of Domestic Partnership.*

1. Domestic partners may make an official record of their domestic partnership by completing, signing, and submitting to the City Clerk a statement of domestic partnership. Persons submitting a statement of domestic partnership must declare under penalty of perjury that they meet the criteria set out in subsection 12-9A.1a. of this section.

2. The domestic partnership statement shall include the names of the domestic partners, the date on which they became each other's domestic partners, and the names of any dependents of the domestic partnership.

b. *Registration of Additional Dependents.* Domestic partners shall amend their registration statement whenever additional dependents become part of the domestic partnership. Only those dependents who are registered pursuant to this section shall be considered dependents of a domestic partnership.

c. *Termination of Domestic Partnership.* Either member of a domestic partnership may terminate the domestic partnership by filing a termination statement with the City Clerk. Termination of a domestic partnership shall become effective ninety (90) days after the termination statement is filed with the City Clerk, except that a domestic partnership shall terminate immediately upon the death of one of the partners; and provided, however, that all rights and benefits extended to dependents of a domestic partnership shall survive termination of the domestic partnership if the domestic partner through whom the dependent obtains the right or benefit continues to have responsibility for the welfare of the dependent. In the event of the death of one of the domestic partners, the surviving partner shall notify the City Clerk by sending the City Clerk a copy of the death certificate. Any person

filing a termination statement must declare under penalty of perjury that (1) the domestic partnership is terminated and (2) that the other domestic partner has been notified either personally or by mailing a copy of the termination statement to the other domestic partner's last and usual address by certified mail.

d. New Statements of Domestic Partnership.

No person may file a statement of domestic partnership until any previous domestic partnership of which they were a member has been effectively terminated.

(Ord. 1993 c. 12 § 2)

12-9A.3 City Clerk.

a. Records. The City Clerk shall maintain adequate records of domestic partnership statements showing which domestic partnerships have been created, terminated, and amended. The City Clerk shall provide forms as necessary to those who request them.

b. Fees for Statements.

1. The City Clerk shall charge a fee for filing a domestic partnership statement. The amount of this fee shall be equivalent to the fee charged to file a marriage license.

2. Copies of a domestic partnership statement, certified by the City Clerk, or copies of amendment or termination statements, certified by the City Clerk, shall cost twelve (\$12.00) dollars per copy.

(Ord. 1993 c. 12 § 3; Ord. 1997 c. 4, Ch. 2 § 3; Ord. 2003 c. 5 § 1)

12-9A.4 Visitation and Other Rights.

a. Health Care Facilities. All public health care facilities in Boston, including but not limited to hospitals, convalescent facilities, mental health care facilities or other long term care facilities, shall afford domestic partners the same visitation rights as afforded to a spouse or parent of a patient, and shall afford dependents of the domestic partnership the same visitation rights as afforded to a patient's child. For the purpose of visitation rights pursuant to this section, an individual who is a registered as a domestic partner in the City of Boston or as a dependent of a domestic partnership, but who cannot produce documentation of such registration, shall be

afforded such recognition, during periods of time when the City Clerk's office is not open for business, upon the submission to the health care facility of a statement signed under penalty of perjury that the individual meets the requirements of a domestic partner or dependent as defined in this section. This statement shall have no other effect beyond providing the individual with visitation rights equivalent to those of a spouse, child or parent of a patient. It shall be the responsibility of the health care facility to inform individuals of this right upon denial of visitation where a spouse, child or parent would have been afforded visitation rights;

b. Jail, Prison, and Juvenile Correction Centers Visitation. All jails, prisons and juvenile correction centers under the jurisdiction of the City of Boston shall afford domestic partners the same visitation rights afforded to a spouse or parent of an inmate, and shall afford dependents of the domestic partnership the same visitation rights afforded to an inmate's child. For the purpose of visitation rights pursuant to this section, an individual who is registered as a domestic partner in the City of Boston or as a dependent of a domestic partnership, but who cannot produce documentation of such registration, shall be afforded such recognition, during periods of time when the City Clerk's office is not open for business, upon the submission to the jail, prison or juvenile correction center of a statement signed under penalty of perjury that the individual meets the requirements of a domestic partner or dependent as defined in this section. This statement shall have no other effect beyond providing the individual with visitation rights equivalent to those of a spouse, child or parent of an inmate. It shall be the responsibility of the jail, prison or juvenile correction center to inform individuals of this right upon denial of visitation where a spouse, child or parent would have been afforded visitation rights;

c. Schools and Day Care Centers.

1. All public schools and public day care centers in Boston shall afford both members of a domestic partnership equal access to records pertaining to a dependent of the domestic partnership to the extent permissible under State Law. Such schools and day care centers shall afford both members of a domestic partnership the same rights and access to employees in matters concerning their dependent to which any biological parent of a child

enrolled in that school or day care center would be entitled.

2. All such schools and day care centers shall consider dependents of a domestic partnership to be siblings, and shall treat them in the same manner they treat siblings of any other family.

(Ord. 1993 c. 12 § 4)

12-9A.5 Limitation of Liabilities.

Nothing in this section shall be construed to create additional legal liabilities greater than those already existing under law or to create any new private causes of action. (Ord. 1993 c. 12 § 5)

12-9A.6 Retaliation.

No person who seeks the benefit of this section, registers pursuant to its provisions, or assists another person in obtaining the benefits of this section shall be discriminated against in any way for doing so. Any person who so discriminates shall be penalized in accordance with the provisions of the Boston Human Rights Ordinance. (Ord. 1993 c. 12 § 6)

12-9A.7 Severability.

The provisions of this section are severable. If any of its provisions are held invalid by a court of competent jurisdiction, all other provisions shall continue in full force and effect. (Ord. 1993 c. 12 § 7)

12-9A.8 Forms.

The City Clerk shall distribute copies of the forms following this section to those who request them. Said forms shall be considered a part this section, and consist of the following:

a. Statement of Domestic Partnership;

b. Statement of Terminating Domestic Partnership;

c. Statement of Additional Dependents.

(Ord. 1993 c. 12 § 8)

Editor's Note:

The copies of the forms referred to herein may be found at the end of this section.

12-9A.9 Employee Health Insurance Study.

The City of Boston shall conduct a study of:

a. Possible cost-saving measures which would reduce the City's costs for the provision of health insurance benefits to its employees; and

b. Costs and other issues related to the extension of health insurance benefits to City employees' domestic partners and their dependents.

This study shall be completed, and copies shall be made available to the City Council, by June 30, 1994.

(Ord. 1993 c. 12 § 9)

**CITY OF BOSTON
OFFICE OF THE CITY CLERK**

Statement of Domestic Partnership

We, _____
Full name
Date of Birth: / /
 Month/Day/Year

and _____
Full name
Date of Birth: / /
 Month/Day/Year

declare that:

- (1) we share basic living expenses;
- (2) we assume responsibility for each other's welfare and for the welfare of any dependents listed below;
- (3) we are at least eighteen years of age;
- (4) we are competent to enter into a contract;
- (5) we are each other's sole domestic partner;
- (6) we are not married to anyone, nor related to each other by blood closer than would bar marriage in the Commonwealth of Massachusetts; and
- (7) we shall notify the City Clerk of any change in the status of our domestic partnership.

We became each other's domestic partner on _____
Our domestic partnership is a family which includes the following dependents

I declare under the pains and penalties of perjury that to the best of my knowledge the foregoing statements are true and correct.

Signed: _____
Printed Name: _____
Date: _____

Signed: _____
Printed Name: _____
Date: _____

**CITY OF BOSTON
OFFICE OF THE CITY CLERK**

Statement of Terminating Domestic Partnership

I declare that:

(1) _____ and I are
Full name of domestic partner

No longer domestic partners; and

(2) I notified my former domestic partner of this statement in person/by certified mail (please circle one)
on

Date

I declare under the pains and penalties of perjury that to the best of my knowledge the foregoing statements are true and accurate.

Signed: _____

Printed Full Name: _____

Date: _____

**CITY OF BOSTON
OFFICE OF THE CITY CLERK**

Statement of Additional Dependents

Our domestic partnership/extended family (circle appropriate term) now includes the following additional dependents:

I declare under the pains and penalties of perjury that to the best of my knowledge the foregoing statements are true and correct.

Signed: _____

Printed Full Name: _____

Date: _____

12-10 ESTABLISHING THE BOSTON EMPLOYMENT COMMISSION.

12-10.1 Preamble: Policy of the City of Boston.

There is a need to ensure that Boston residents receive maximum benefits from the growing private economy of their city and the economic resurgence of office, hotel, retail, institutional, and unsubsidized residential development, including the permanent jobs which emanate from this economic expansion; and

There is unemployment and underemployment in the City of Boston, both among majority and minority residents; and

Boston is experiencing a resurgence in its economy that is creating the potential for unprecedented economic opportunity; and

Boston has fully established itself as the economic center for the entire New England region and is generating wealth and revenues for people throughout the region; and

One principal aspect of a strong and vibrant city is the ability of its breadwinners to gain access to secure jobs that pay a living wage; and

Black, Hispanic, Asian and Native American residents of the City of Boston, as well as women residents have historically been underrepresented in the workforce; and

An Ordinance establishing the Boston Residents Jobs Policy, Ordinances of 1983, Chapter 30, was promulgated to insure that Boston residents, minorities, and women receive job preference in projects that have City funds or State or Federal funds administered by the city; and the Mayor issued as Executive Order relating to the Boston Residents Jobs Policy, dated July 12, 1985, which established Resident Construction Employment Standards to further ensure employment for Boston residents, minorities, and women; and Under the Boston Residents Jobs Policy, Boston residents are enjoying greatly improved access to jobs in the downtown construction industry; and

It is the policy of this City government to ensure that all people enjoy fair and open access to employment in permanent jobs in the private sector; and

It can be shown that broader cooperation from the private sector can produce meaningful employment opportunities for Boston residents who want and need them; and

Job placement is contingent upon proper job training and without necessary skills some Boston residents cannot secure permanent jobs; and

It is essential to the success of the 1983 Boston Residents Jobs Policy Ordinance and the 1985 Mayor's Executive Order that projects and employment plans be monitored, that findings be made with respect to compliance, and that recommendations for sanctions be determined, and that all this be done in a manner that provides for the due process rights of all parties; and

It is essential to engender an atmosphere of cooperation between the public and private sectors with respect to permanent jobs for Boston residents, minorities, and women; and

The following is declared to be in the public interest.

(Ord. 1986 c. 12 Preamble.)

Editor's Note:

This ordinance is codified as Section 8-9, Boston Residents Jobs Policy.

12-10.2 Definitions.

For the purposes of this section, the following definitions shall apply, unless the context otherwise requires:

Best Efforts shall mean that developers and contractors may rely on traditional referral methods in the hiring of journeymen, apprentices, advanced trainees and helpers. Developers and contractors also shall implement affirmative action steps which include the following to the extent that such steps do not conflict with any applicable collective bargaining agreements:

a. As to Contractors:

1. The contractor shall designate and shall require each subcontractor to designate an individual to serve as a compliance officer for the purpose of pursuing the Boston Residents Construction Employment Standards ("Standards").

2. Prior to the start of construction, the contractor and each subcontractor then selected shall meet with appropriate representatives of the construction trade unions, representatives from Mayor's Office of Jobs and Community Services, and the awarding or contracting authority for the purpose of reviewing the Standards and the estimated employment requirements for construction activity over the construction period of the Covered Project.

3. Whenever any person involved in the construction of a Covered Project makes a request to a union hiring hall, business agent or contractor's association for qualified construction workers, the request shall ask that those qualified applicants referred for construction positions be referred in the proportions specified in the Boston Resident Construction Employment Standards and shall, further, contain a recitation of such Standards. However, if the requesting party's workforce composition at any time falls short of any one or more of the proportions specified in the Standards, the requesting party shall adjust his or her request so as to seek to more fully achieve the proportions specified in the Standards. If the union hiring hall, business agent or contractor's association to whom a request for qualified employees has been made fails to fully comply with such request, the requesting party's compliance officer shall seek written confirmation from the hall, agent or association that there are insufficient employees in the categories specified in the request and that such insufficiency is documented on the unemployed list maintained by the hall, agent or association. Copies of any confirmation so obtained shall be forwarded to the Commission. Copies of any requests for qualified employees made at a time that the requesting party's workforce composition falls short of any one or more of such Standards shall be forwarded contemporaneously to the Skills Bank.

4. All persons applying directly to the Contractor or any subcontractor for employment in construction on a Covered Project who are not

employed by the party to whom application is made shall be referred by said party to the Mayor's Office of Jobs and Community Services, and a written record of such referral shall be made by said party, a copy of which shall be sent to such Office of Jobs and Community Services.

5. Contractor shall maintain a current file of the names, addresses, and telephone numbers of each Boston resident, minority, and woman who has sought employment with respect to a Covered Project, or who was referred to the contractor by the Mayor's Office of Jobs and Community Services but was not hired. The contractor shall maintain a record of the reason any such person was not hired. If the construction of the Covered Project is subject to any union collective bargaining agreements, it shall be required that the employee complies with any lawful union security clauses contained in such agreement.

6. The Contractor shall in a timely manner complete and submit to the Commission a projection of work force needs over the course of the construction of the Covered Project. Such a submission shall reflect needs by trade for each month of the construction process.

7. The contractor shall obtain from each worker employed in the construction of the Covered Project a sworn statement containing the worker's name and place of residence.

8. One week following the commencement of construction of the project, and each week thereafter until such work is completed, the contractor shall complete and submit to the Mayor's Office of Jobs and Community Services for the week just ended a report which reflects (a) for each employee, the employee's name, place of residence, race, gender, trade and the total number of worker hours he or she worked, and (b) the total worker hours of its total workforce.

9. The contractor and each subcontractor shall maintain records reasonably necessary to ascertain compliance with the steps detailed in subparagraph 1 through 8 hereof for at least one year after the issuance of a Certificate of Occupancy for the Covered Project. In its review of records of a construction project submitted to demonstrate compliance with these steps, the Commission shall take into consideration any affirmative action outreach

programs and affirmative action job training program of the particular trades participating in the Covered Project.

b. As to Developers:

1. Developers of Covered Projects shall incorporate in every general construction contract or construction management agreement an enumeration of the Standards and shall impose a responsibility upon any such general contractor or construction manager to take all steps enumerated in subparagraph 1 through 9 in paragraph a of this subsection and to incorporate such Standards in all subcontracts and impose upon all subcontractors the obligation to take such steps.

2. The developer shall meet with the contractor no less frequently than weekly throughout the period of construction of the Covered Project to review the contractor's compliance with such Standards and steps. The developer shall maintain minutes of such meetings and shall forward a copy of such minutes to the Mayor's Office of Jobs and Community Services within ten (10) days of each such meeting.

3. The developer shall comply with the escrow deposit requirements of subsection 12-10.9 hereof.

Boston Employment Commission, hereinafter "Commission" shall mean there shall be in the City a Commission known as the Boston Employment Commission, consisting of seven (7) members, all appointed by the Mayor. The Commission shall have the powers and duties set forth in subsection 12-10.4 herein. The members of the Commission shall be deemed special municipal employees for purposes of Chapter 268A of the Massachusetts General Laws.

Boston Resident shall mean any person for whom the principal place where that person normally eats and sleeps and maintains his or her normal personal and household effects is within the City limits of the City of Boston.

Boston Residents Construction Employment Standards shall mean the standards as contained below:

a. At least fifty (50%) percent of all worker-hours on a craft-by-craft basis in Covered Projects shall be worked by Boston Residents;

b. At least twenty-five (25%) percent of all worker-hours on a craft-by-craft basis in Covered Projects shall be worked by Minority Persons;

c. At least ten (10%) percent of all worker-hours on a craft-by-craft basis in Covered Projects shall be worked by women.

Boston Resident New Hire Goals shall mean that the commission will determine baseline hiring goals for Boston residents, minorities and women, such determination to be based upon a consideration of:

a. Current workforce composition;

b. The composition of the workforce that is unemployed;

c. Numbers and categories of new job opportunities being created in Boston; and

d. An examination of employment trends in Boston over the last five (5) years.

The Commission shall reevaluate annually, and modify if appropriate, such goals based upon the number of permanent full-time equivalent new hires of Boston residents, minorities and women during the previous calendar year.

Covered Projects shall mean all projects, contracts, or agreements within the jurisdiction of:

a. The Boston Residents Jobs Policy, Ordinances of 1983, Chapter 30 (hereinafter referred to as "Jobs Ordinance") and for which the contract or agreement is executed after the effective date of this section; and

b. Any new construction or substantial rehabilitation project in the City to which any partial or full building permit has not already been issued for this specific construction or rehabilitation, dedicated to a retail, restaurant, and/or institutional use as defined in the Boston Zoning Code, which requires approval by the Zoning Board of Appeals and in which it is

proposed to erect a structure or structures having a total gross floor area (exclusive of all accessory parking garage space) in excess of one hundred thousand (100,000) square feet or to enlarge or extend a structure or structures so as to increase its (or their) gross floor area (exclusive of all accessory parking garage space) by more than one hundred thousand (100,000) square feet or to substantially rehabilitate a structure or structures having, or to have, after rehabilitation, a gross floor area (exclusive of accessory parking garage space) of more than one hundred thousand (100,000) square feet.

Major Employer shall mean any corporation, partnership, individual, or institution which employs more than five hundred (500) people to work within the City of Boston.

Mayor's Office of Jobs and Community Services hereinafter "OJCS", shall mean the agency within the City of Boston government responsible for compiling compliance information in accordance with the Boston Residents Construction Employment Standards and the Minority Business Enterprise/Women's Business Enterprise Programs.

Minority Business Enterprise ("MBE") shall mean a business organization in which fifty-one (51%) percent in the aggregate of the beneficial ownership is held by one or more minority persons.

Womens' Business Enterprise ("WBE") shall mean a business organization in which fifty-one (51%) percent in the aggregate of the beneficial ownership is held by one or more women.

Minority Person or *Minority* shall mean any person who is Black, Hispanic, Asian, or Native American, as these terms are defined by the United States Census Bureau.

Permanent Job shall mean any full-time position, or its equivalent, that an employer would fill year-round and continue to fill indefinitely in a particular location.

Skills Bank shall mean a job screening and referral bank maintained by OJCS, which shall refer residents to available jobs and/or to appropriate training programs, including but not limited to, programs offered at the Hubert Humphrey Occupational Resource Center.

Voluntary Employment Plan shall mean any plan to promote hiring for jobs in Boston of Boston residents, minorities, and/or women developed by a Major Employer or a group of Major Employers.

Worker-Hours shall mean the sum total of all hours worked by all persons performing construction work.

(Ord. 1986 c. 12, § 1; Ord. 1986 c. 17, § 1)

Editor's Note:

This ordinance is codified as Section 8-9, Boston Residents Jobs Policy.

12-10.3 Scope of Jurisdiction.

The Commission's jurisdiction shall extend to: (1) Covered Projects and (2) assistance in the formulation and monitoring of Voluntary Employment Plans.

(Ord. 1986 c. 12, § 2)

12-10.4 Powers and Duties.

a. Covered Projects.

1. The Commission shall make determinations as to compliance by developers and contractors with the Boston Residents Construction Employment Standards. The Commission shall gather and receive compliance information from OJCS, investigate noncompliance complaints, make compliance determinations and, where appropriate, shall recommend sanctions to the awarding or contracting authority. The Commission may gather compliance information at any time and shall make compliance determinations in phases for each Covered Project in accordance with Subsections 12-10.6, 12-10.7 and 12-10.8 herein. For projects under construction upon the passage of this section, all existing contracts and agreements shall remain in full force and effect and the provisions of this section shall not otherwise apply.

2. The Commission shall have the authority to require developers of Covered Projects to submit: (i) detailed plans which show how the developer intends to meet the Boston Residents Construction Employment Standards; and (ii) detailed plans which show how the developer intends to meet MBE/WBE goals contained in or applicable to City contracts.

3. In the review of such detailed plans, the Commission shall consider any affirmative action outreach programs and affirmative action job training programs of the particular trades participating in the Covered Project and participation, if any, of the developer or the contractor in any such program.

4. The Commission shall monitor MBE/WBE goals contained in or applicable to City contracts. The Commission shall receive compliance information from OJCS and shall recommend to the awarding or contracting authority appropriate remedies for noncompliance.

5. The Commission shall monitor Davis-Bacon Act requirements contained in City agency or authority contracts. The Commission shall receive compliance information and shall forward any information concerning apparent noncompliance to appropriate federal agencies.

b. Voluntary Employment Plans.

1. The Commission shall meet with a group of representatives of major Employers to review voluntary aggregate hiring goals set by said employers.

2. The Commission shall receive information concerning the success in meeting the voluntary aggregate hiring goals. The Commission shall encourage a group representing the Major Employer to issue an annual public report on the success of this effort and of voluntary business programs such as Boston Summer Jobs program, the Boston Compact and Boston Works.

3. The Commission shall encourage Major Employers to adopt Voluntary Employment Plans, which promote a collaboration between the public and private sectors to expand employment opportunities for Boston residents, minorities and women. The Commission shall encourage Major Employers to incorporate the Boston Resident New Hire Goals in their Voluntary Employment Plans. The Commission shall advise OJCS and other City agencies of the amounts and types of assistance identified by Major Employers as being necessary to achieve the goals included in their Voluntary Employment Plans. Such assistance may include, but is not limited to, job training, adult literacy and referral services. The Commission may conduct surveys to assess the progress made toward hiring goals as to Boston residents, minorities and women.

c. General.

1. The Commission shall have the authority to promulgate regulations as to matters within the Commission's purview after public notice and hearing and upon a majority vote of all members.

2. The Commission shall cause to be created, in conjunction with the Mayor's Office of Jobs and Community Services, a job training program. Said job training program shall be conducted at the appropriate sites which may include the Hubert Humphrey Occupational Resource Center, or its successor, or other appropriate skills training facilities. The purpose of said training program is to provide skills training to any Boston Resident in order to be fully qualified for entry into existing apprenticeship programs or jobs. Subject to appropriation by the Mayor and the City Council, any fines levied against the escrow fund set out in subsection 12-10.9 shall be for the benefit of this job training program and no other.

3. The Commission shall make available online from the City's website a searchable and sortable database, updated monthly, of Covered Projects that provides, for each project, the project name; the developers, contractors and subcontractors; information on actual numbers and percentage data of employed Boston residents, minority and women workers by trade; the address of the project site; and contact information for the project's hiring officer. The Commission shall work in conjunction with the Boston Redevelopment Authority to develop these reports for the inclusion of any additional construction projects and to maintain the online database. (Ord. 1986 c. 12, § 3; Ord. 2010 c. 9)

12-10.5 Composition.

The Commission shall be composed of seven (7) members, all of whom shall be appointed by the Mayor. The Commission shall be representative of the interests of business, minorities, women, organized labor, Boston Building Trades Council, and the Mayor's Jobs Liaison Committee. Members of the Commission shall have demonstrated commitment to equal employment opportunity. All members of the Commission shall be Boston residents or shall maintain their principal place of business in Boston.

a. Term of Office. Commission members shall be appointed to two-year terms, and members shall serve until their successors are duly appointed. If a

vacancy on the Commission occurs before a term expires, that vacancy shall be filled by appointment by the Mayor for the balance of the unexpired term.

b. *Removal.* The Mayor may remove a member for just cause by filing a written statement to that effect with the City Clerk. Reasons for just cause shall include but not be limited to a pattern of nonattendance, lack of residency or employment in the City of Boston, noncompliance with the procedures established under Subsection 12-10.6 herein, failure to disclose conflicts of interest, incapacity due to illness, or conviction of a crime. The Mayor's determination that just cause for removal exists shall be conclusive.

c. *Chair.* The Chairperson of the Commission shall be designated by the Mayor and shall serve in that capacity for a term of two (2) years.

d. *Quorum.* In no event shall a quorum be fewer than four (4) members of the Commission.

e. *Voting.* Every vote of the Commission shall require an affirmative vote of no fewer than four (4) members of the Commission.
(Ord. 1986 c. 12 § 4)

12-10.6 Procedures.

Actions or determinations under subsection 12-10.8, 12-10.9 or 12-10.10 herein shall be taken or made in accordance with the following administrative procedures:

a. *Hearing and Notice to Parties.* A party subject to the jurisdiction and recommendation power of the Commission shall be entitled to a hearing and shall be given at least fourteen (14) calendar days notice of any such hearing directly affecting his or her interests, such notice to be in writing to the party and sent by mail, postage prepaid, first class, to the party's usual place of business.

b. *Method.* Decisions to recommend sanctioning a party shall require a majority vote of the Commission. The Commission shall adopt procedures, voted by a majority of all members, to establish the time, place, and manner for its members to meet and vote and for making determinations of compliance and recommendations to awarding authorities or agencies. All protections necessary to fulfill due process

requirements shall be incorporated in the aforementioned procedures. Such procedures and any revisions to such procedures shall be submitted in writing to the Mayor and OJCS within twenty-one (21) calendar days of their scheduled adoption.

c. *Public Meetings.* The Commission shall be subject to the requirements of the Massachusetts Open Meetings Law, G.L. c. 39, s 23A—C.

d. *Records.* The Commission shall keep records of its meetings and shall record no less than the following: the time and place of the meeting; the topic(s) discussed at the meeting; members in attendance at the meeting; any votes taken; and any disclosure by members of conflicts of interest. The Chairperson or his or her designee shall maintain such records in a good and legible condition. The records shall be available for inspection by any member of the public upon reasonable notice.
(Ord. 1986 c. 12 § 5)

12-10.7 Standards for Compliance.

The Commission shall use the Boston Residents Construction Employment Standards to monitor compliance of Covered Projects with this section. A Covered Project shall be deemed to be in compliance if (1) the statistical monitoring data at the relevant determination date, set forth in Subsection 12-10.8 hereof shows compliance with the Boston Residents Construction Employment Standards; or (2) if the Commission determines that Best Efforts have been made to comply with the Boston Residents Construction Employment Standards.
(Ord. 1986 c. 12 § 6)

12-10.8 Determination of Compliance.

The Commission shall make determination as to compliance by developers and contractors of Covered Projects with the Boston Residents Construction Employment Standards at time intervals as set out in one of the following two (2) schedules, whichever allows for more frequent determinations:

a. When the Covered Project is twenty-five (25%), fifty (50%), seventy-five (75%) and one hundred (100%) percent complete, or,

b. Every three (3) months from the date of commencement of the Covered Project.

"Percent complete" shall be measured by the percentage of the total worker hours expected to be worked on the project. The Commission shall monitor that percentage and shall include it in its monitoring reports.

(Ord. 1986 c. 12 § 7)

12-10.9 Establishment of Escrow Fund.

An escrow fund shall be established for each project which is a Covered Project, as defined in Subsection 12-10.2 paragraph b "Covered Projects", herein. Payment into the escrow fund shall be made by the developer when the developer secures permanent financing for the Covered Project. The developer shall pay into the escrow fund an amount equal to one-tenth of one (.1%) percent of the total construction cost of the project as stated in the building permit application for the Covered Project; provided, however, that if either the developer or contractor has been subject to a determination of noncompliance at more than two (2) determination dates in any prior Covered Project in which they have participated in the preceding twenty-four (24) months, the amount of the escrow fund required for the Covered Project shall be two-tenths of one (.2%) percent of such construction cost. The developer shall deposit these funds with an escrow agent agreed upon by the parties pursuant to an escrow agreement to which the Commission, the awarding or contracting agency and the developer are parties, who shall hold said fund for the purpose of satisfying any accrued fines levied in relation to a project.

The escrow agent, at the time of deposit into the escrow account, shall deduct all fines which have accrued against the fund to that date. There shall be a written escrow agreement detailing the terms under which the escrow funds are held. Such agreement shall provide, at a minimum, that any demand for payment from the escrow account which is made upon the escrow agent by the awarding or contracting authority shall be made in writing and shall be accompanied by a written statement of the reason for such demand, including any factual findings supporting such reason. The demand shall further instruct the escrow agent that he/she is to take no action on the demand for at least forty-eight (48) hours after receipt. A copy of the demand shall be simultaneously served upon all other parties to the escrow agreement.

Interest, if any, accrued by the fund, shall remain in and become a part of the escrow fund until such time as the fund shall be released. When all necessary permits for the use of the building have been issued to the developer, including but not limited to an occupancy permit and a finding of compliance has been made by the Commission, all monies in the escrow fund, including any accrued interest, shall be released and returned to the developer.

(Ord. 1986 c. 12 § 8)

12-10.10 Sanctions.

The Commission shall have the authority to recommend to the awarding or contracting agency that sanction against the developers and contractors of Covered Projects be imposed for noncompliance with the Boston Residents Construction Employment Standards and/or for non-compliance with paragraph a, 2 of Subsection 12-10.4. The Commission shall recommend the imposition of any or all three (3) of the following sanctions:

a. Fine to a maximum of three hundred (\$300.00) dollars for each violation as determined by the Commission when such developer or contractor was not in compliance, as defined in Subsection 12-10.7, each day of non-compliance to be considered as a separate violation, to be levied against the escrow fund as established by Subsection 12-10.9 herein, provided that fines may still be levied and will still be due if the escrow account is exhausted;

b. Preclusions from the award of municipal contracts and competitions for public development rights for a period of up to three (3) years, provided that this sanction may only be recommended at the completion of the Covered Project; or

c. Sanctions as authorized by the Jobs Ordinance or incorporated in contracts.

The recommendation of sanctions under this subsection shall not preclude and shall be in addition to any action or sanction authorized by contract or agreement or otherwise authorized by law.

(Ord. 1986 c. 12 § 9)

12-10.11 Staffing.

The Commission shall have staff consistent with the Commission's purpose. The Director of OJCS shall be the Executive Director of the Commission, provided, however, that said Director shall be wholly compensated for his/her duties as Director from the budget of OJCS.

(Ord. 1986 c. 12 § 10)

12-10.12 Conflicts of Interest.

No member shall appear before the Commission or represent any person, firm, corporation or other entity in any matter pending before the Commission. Members shall not participate in a discussion or a decision of the Commission on any matter in which they are directly or indirectly interested in a personal or a financial sense. Any disclosure of conflict of interest shall be entered into the records of the Commission.

(Ord. 1986 c. 12 § 11)

12-10.13 Severability.

The provisions of this section are severable, and if any provision shall be held invalid or unconstitutional by a decision of any court of competent jurisdiction such invalidity shall not impair, or otherwise affect, any other provisions of this section.

(Ord. 1986 c. 12 § 12)

12-10.14 Effective Date.

This section shall take effect thirty (30) days after enactment.

(Ord. 1986 c. 13 § 13)

Editor's Note:

This section was enacted on August 12, 1986.

12-11 NEIGHBORHOOD JOBS TRUST.**12-11.1 Policy of the City of Boston.**

The construction or rehabilitation of new large-scale real estate development projects in the City of Boston, especially in conjunction with other market forces, results in lost employment opportunities for Boston's low or moderate income residents who have

their existing employment or promotional opportunities diminished, or who are unable to successfully compete for new employment opportunities resulting from such construction or rehabilitation. The existence of such unemployment or underemployment in the City of Boston constitutes a serious and growing menace, injurious and inimical to the safety, health, morals and welfare of the residents of the City of Boston and sound growth of the City of Boston; and the existence of such lack of adequate employment opportunities contributes substantially to crime necessitating excessive and disproportionate expenditure of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment, and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection and other public services and facilities, which constitutes an economic and social liability, substantially impairs or arrests the sound growth of the City of Boston. Because of the economic and social interdependence of different areas within the City of Boston, the full employment of all those who can and wish to work not only in the "downtown" commercial areas but also in decadent areas is necessary in order to: promote the sound growth of the City of Boston; to achieve permanent and comprehensive elimination of existing slums and substandard and decadent conditions; and to prevent the recurrence of such substandard or decadent conditions or their development in other parts of the City of Boston; and the abandonment of existing industries and employment opportunities in such areas exacerbates decadent or substandard conditions; and the menace of underemployment or unemployment is beyond remedy and control solely by the regulatory process in the exercise of the police power and such menace has not been dealt with effectively by the ordinary operations of private enterprise. Limited public resources require that government dollars for job training, re-training, adult literacy and job counseling programs be highly leveraged by private investment; and the development of employment training and employment opportunities eliminating underemployment and unemployment in the City of Boston is a public use and purpose for which public money may be expended; and the aforesaid conditions have not been corrected by the ordinary operations of private enterprise in a regulated market; now, the following is declared to be in the public interest.

(Ord. 1987 c. 11 Preamble)

12-11.2 Establishment of Neighborhood Jobs Trust.

The Collector-Treasurer shall establish the "Neighborhood Jobs Trust", which trust shall be established in the form and manner of the attached Declaration of Trust. Subject to approval by the City Council and the Mayor, the Neighborhood Jobs Trust is hereby authorized to accept and expend any and all funds contributed to it consistent with the purposes of the attached Declaration of Trust.

(Ord. 1987 c. 11 § 1 T12)

Editor's Note:

The text of the Declaration of Trust is on file in the Office of the City Clerk.

12-12 HIRING OF STRIKEBREAKERS OR REPLACEMENT WORKERS.

Editor's Note:

This ordinance (Chapter 8 of 1990) was found to be unconstitutional and pre-empted by federal laws, by judgment of the U.S. District Court for the District of Massachusetts, dated March 23, 1992, in the case of Greater Boston Chamber of Commerce v. City of Boston, 778 F. Supp. 95 (1991).

12-12.1 Policy.

It shall be the policy of the City of Boston in accordance with the provisions of M.G.L. Ch. 40 Sec. 21 to regulate the conduct of employers who attempt to replace employees who are members of or are associated with a labor organization in order to protect the safety, convenience, and peaceful enjoyment of the residents, visitors, and tourists of the City of Boston. (Ord. 1990 c. 8 § 1)

12-12.2 Definitions.

When used in this section, the following terms shall have the following meanings:

a. *Employee* shall mean any person who performs services for wages or salary under a contract of employment, express or implied, for an employer.

b. *Employer* shall mean any individual, partnership, or corporation who employs any

employee to perform services for a wage or salary and includes any agent of any employer acting directly or indirectly.

c. *Labor organization* shall mean any organization of any kind or any agency or employee representation committee or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

d. *Lockout* shall mean a refusal by an employer to permit his employees to work as a result of a dispute with such employees that affects wages, hours, and other terms and conditions of employment of said employees, provided, however, that a lockout shall not include a termination of employment for reasons deemed proper under Massachusetts State and Federal law.

e. *Replacement worker* shall mean any individual hired for the purpose of replacing either permanently or temporarily an employee who is currently engaged in a lawful strike or who is locked out by his or her employer.

f. *Strike* shall mean any concerted act of the employees in a lawful refusal of the employees to perform work or services for the employer, provided such acts are not recognized as unlawful under Massachusetts State or federal law, and if the employees are represented by a labor organization, that the said labor organization shall have approved or sanctioned the act.

g. *Strikebreaker* shall mean any person who customarily and repeatedly offers himself or herself for employment for the duration of a strike or lockout in the place of an employee involved in a strike or lockout.

(Ord. 1990 c. 8 § 2)

12-12.3 Unlawful Conduct.

a. It shall be unlawful in the City of Boston for any employer willfully and knowingly to employ any strikebreaker to replace employees who are either on strike against or locked out by such employer.

b. It shall be unlawful in the City of Boston for any employer not directly involved in a strike or lockout to recruit, secure or offer to secure employment for any strikebreaker or, any replacement worker where it is found that such action is likely to cause a threat to the public safety, violence, or harm to persons or property.

c. It shall be unlawful in the City of Boston for any employer to employ one or more replacement workers, where it is found that such hiring of replacement workers is likely to cause a threat to the public safety, violence, or harm to persons or property.

d. The findings required under paragraphs b. and c. of this subsection shall be satisfied either by:

1. Deployment by the Boston Police Department of detail officers or regular officers in order to preserve the public peace, prevent violence, prevent intimidation, or prevent threats to the public safety in association with a strike or a lockout, or

2. A determination by the Police Commissioner that one (1) or more actions taken in association with hiring replacement workers is likely to cause a threat to the public peace or public safety, violence, intimidation, or harm to persons or property.

(Ord. 1990 c. 8 § 3) Penalty, see subsection 12-12.4

12-12.4 Penalties.

In accordance with the provisions of M.G.L. Ch. 50 Sec. 21, the Police Commissioner of the City of Boston shall enforce the provisions of this section. Each strikebreaker or replacement worker employed, recruited or secured for employment, and each attempt or offer to recruit or secure employment, in violation of any provision of the unlawful conduct subsection of this section, shall be construed as a separate and succeeding offense. Each day or part thereof of violation of any provision of the unlawful conduct subsection of this section, whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense. Each violation shall carry a penalty of two hundred (\$200.00) dollars.
(Ord. 1990 c. 8 § 4)

12-12.5 Effective Date.

This section shall take effect immediately upon passage.

(Ord. 1990 c. 8 § 5)

12-12.6 Severability.

The provisions of this section shall be severable and if any one (1) or more provisions, or parts or subparts thereof, shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction the decision of such court shall not affect or impair any of the remaining provisions or parts thereof.

(Ord. 1990 c. 8 § 6)

12-13 PARENTAL SCHOOL LEAVE.

12-13.1 Definitions.

Employer shall mean the owner and/or proprietor of a business with twenty-five (25) or more employees working at any same location.

Parents shall mean the biological and/or adopted parents of a child attending the Boston public schools or a legal guardian of a child attending the Boston public schools.

Pupil shall mean any child attending the Boston public school system.

Schools shall mean all public schools in the City of Boston funded entirely or partially by the City of Boston.

(Ord. 1994 c. 13 § 1)

12-13.2 Legislative Intent.

This section would allow parents of school-aged pupils in kindergarten and grades one (1) to twelve (12) an opportunity to spend up to three (3) days per year for school visits if the employee, prior to taking off, gives reasonable notice to the employer of the planned absence of the employee. The section would require an employee to utilize existing vacation, personal leave or compensatory time off for purposes of this planned absence, unless otherwise provided by

a collective bargaining agreement, and/or agreed upon by the employee and employer and, if requested by the employer, to provide documentation, as prescribed, from the school as proof of these visits. All employers, notwithstanding staff size, are encouraged to grant employees up to three (3) days per year with pay.
(Ord. 1994 c. 13 § 2)

12-13.3 Operation of Section.

No employer, who employs twenty-five (25) or more employees working at the same location, shall discharge or in any way discriminate against an employee who is a parent or guardian of any child in kindergarten or grades one (1) to twelve (12), inclusive, for taking off up to three (3) days each school calendar to visit the school of the pupil(s), if the employee, prior to taking time off, gives clear and reasonable notice to the employer of the planned absence of the employee. An employee shall utilize existing vacation, personal leave or compensatory time off for purposes of this planned absence, unless otherwise provided by a collective bargaining agreement. The employee, if requested by the employer, shall provide documentation from the school as proof that he or she visited the school on a specific date and at a particular time. For purposes of this subsection, "documentation" shall mean whatever written verification of a parental visit the school deems appropriate and reasonable.

Any employee who is discharged, demoted, threatened, suspended or in any other manner discriminated against in terms and conditions of employment by his or her employer because the employee has taken time off to visit the school or his or her child pursuant to the intent of this section shall be immediately entitled to reinstatement and reimbursement of lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure, arbitration or hearing authorized by law, shall be subject to a civil penalty in an amount equal to five (5) times the amount of the employee's lost wages and work benefits.
(Ord. 1994 c. 13 § 3)

12-14 PROTECTIVE CUSTODY.

12-14.1 Purpose.

The Massachusetts General Laws authorize protective custody for incapacitated persons (M.G.L. c. 111B, s. 8). Incapacitated persons include those intoxicated individuals that are unconscious, in need of medical attention, likely to suffer physical harm, or likely to cause physical harm. In an effort to eliminate confusion, it is important to acknowledge that protective custody is not the legal equivalent of arrest/institution of criminal charges. Although detailed records of the event must be maintained, such records are not criminal records and are not treated as criminal records.

Furthermore, an alcohol-related arrest may occur simultaneously with protective custody. Although arrest procedures run concurrently with protective custody measures, they are separate and distinct. Therefore, a person arrested for OUI (a criminal offense) has the right to bail and release. If, however, such person is a danger to himself/herself as a result of intoxication then, despite the posting of bail, protective custody (i.e. *not* an arrest) may be triggered and such incapacitated person will not be released until such incapacitation dissolves and the person no longer poses a risk to himself/herself or the community. The legislative intent of this section is derived from this risk, and the City of Boston seeks to protect incapacitated persons and the community from the myriad harms that could result from incapacitation due to intoxication by strictly employing the protective custody procedures authorized by M.G.L. c. 111B. The legislative intent is effected by the provisions of this section which track the language of M.G.L. c. 111B, s. 8.
(Ord. 2005 c. 3)

12-14.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in CBC 12-14.

Facility means any public or private place, or portion thereof, providing services especially designed for the detoxification of intoxicated persons or alcoholics (M.G.L. c. 111B, s. 3).

Incapacitated means the condition of an intoxicated person who, by reason of the consumption of intoxicating liquor is (1) unconscious, (2) in need of medical attention, (3) likely to suffer or cause physical harm or damage property, or (4) disorderly (M.G.L. c. 111B, s. 3). (Ord. 2005 c. 3)

12-14.3 Protective Custody.

a. Any person who is incapacitated shall be assisted by police officer with or without such person's consent to his/her residence, to a facility, or to a police station. To determine, for purposes of these sections only, whether or not such person is intoxicated, the police officer may request the person to submit to reasonable tests of coordination, coherency of speech, and breath.

b. Any person assisted by a police officer to a police station shall have the right, and be informed in writing of said right, to request and be administered a breathalyzer test. Any person who is administered a breathalyzer test shall be presumed intoxicated if evidence from said test indicates that the percentage of alcohol in his/her blood is ten one hundredths (0.10) or more and shall be placed in protective custody at a police station or transferred to a facility. Any person who is administered a breathalyzer test, under this section, shall be presumed not to be intoxicated if evidence from said test indicates that the percentage of alcohol in his/her blood is five one hundredths (0.05) or less and shall be released from custody forthwith. If any person who is administered a breathalyzer test, under this section, and evidence from said test indicates that the percentage of alcohol in his/her blood is more than five one hundredths (0.05) and is less than ten one hundredths (0.10) there shall be no presumption made based solely on the breathalyzer test. In such instance a reasonable test of coordination or speech coherency must be administered to determine if said person is intoxicated. Only when such test of coordination or speech coherency indicates said person is intoxicated shall he/she be placed in protective custody at a police station or transferred to a facility.

c. Any person presumed intoxicated and to be held in protective custody at a police station shall, immediately after such presumption, have the right and be informed of said right to make one (1) phone call at his/her own expense and on his/her own behalf. Any person assisted by a police officer to a facility

under these sections shall have the right to make one (1) phone call at his/her own expense on his/her own behalf and shall be informed forthwith upon arriving at the facility of said right. The parent or guardian of any person, under the age of eighteen (18), to be held in protective custody at a police station shall be notified forthwith upon his/her arrival at said station or as soon as possible thereafter.

d. If any incapacitated person is assisted to a police station, the officer in charge or his/her designee shall notify forthwith the nearest facility that the person is being held in protective custody. If suitable treatment services are available at a facility, the Massachusetts Department of Public Health, in accordance with M.G.L. c. 111B, shall thereupon arrange for the transportation of the person to the facility in accordance with the provisions of M.G.L. c. 111B, s. 7.

e. No person assisted to a police station pursuant to these sections shall be held in protective custody against his/her will; provided, however, that if suitable treatment at a facility is not available, an incapacitated person may be held in protective custody at a police station until he/she is no longer incapacitated or for a period of not longer than twelve (12) hours, whichever is shorter.

f. A police officer acting in accordance with the provisions of these sections and in accordance with the provisions of M.G.L. c. 111B may use such force as is reasonably necessary to carry out his/her authorized responsibilities. If the police officer reasonably believes that his/her safety or the safety of other persons present so requires, he/she may search such person and his/her immediate surroundings, but only to the extent necessary to discover and seize any dangerous weapons which may on that occasion be used against the officer or other person present; provided, however, that if such person is held in protective custody at a police station all valuables and all articles which may pose a danger to such person or to others may be taken from him/her for safekeeping and if so taken shall be inventoried.

g. A person assisted to a facility or held in protective custody by the police pursuant to the provisions of these sections and M.G.L. c. 111B, s. 8, shall not be considered to have been arrested or to have been charged with any crime. An entry of custody shall be made indicating the date, time, place of custody, the name of the assisting officer, the name

of the officer in charge, whether the person held in custody exercised his/her right to make a phone call, whether the person held in custody exercised his/her right to take a breathalyzer test, and the results of the breathalyzer test if taken, which entry shall not be treated for any purposes, as an arrest or criminal record.

(Ord. 2005 c. 3)

12-14.4 Applicability.

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.

(Ord. 2005 c. 3)

12-14.5 Regulatory Authority.

The Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

(Ord. 2005 c. 3)

12-14.6 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2005 c. 3)

12-14.7 Implementation.

The provisions of these sections shall be effective immediately upon passage and all provisions shall be enforced immediately.

(Ord. 2005 c. 3)

12-15 CONCUSSIONS.

12-15.1 Concussion Prevention.

The provisions of this section shall be applicable to any elementary, middle or secondary school in the City of Boston, public or private, and any community center, public or private, which organizes and sponsors extracurricular athletic

activities including games and practices for its student athlete(s). "*Student athlete*" shall mean a student who prepares for or participates in an extracurricular athletic activity. "*Extracurricular athletic activity*" shall have the same meaning as that provided for in the Department of Public Health Regulations, 105 CMR 201.005, provided however, that the provisions of this section shall also be applicable to any community center that organizes and sponsors noninterscholastic youth sports programs for athletic competition or instruction for participants under the age of eighteen (18).

All schools and community centers shall ensure that all coaches, certified athletic trainers, trainers, volunteers, school and team physicians, school nurses, and athletic directors annually complete a head injury training program approved by the Department of Public Health as found on the Department's website. Schools and community centers may, in addition to on-line training programs approved by the Department, participate in live training programs that provide training in the recognition, management, response, and prevention of concussions and other sports-related head injuries.

(Ord. 2012 c. 5 § 1)

12-15.2 Concussion Management.

A student athlete who sustains a head injury or suspected concussion, or exhibits signs and symptoms of a concussion, or loses consciousness even briefly, shall be removed from play by the student athlete's coach or certified athletic trainer as set forth in 105 CMR 201.010. The coach shall notify the parent or legal guardian of the student athlete as set forth in 105 CMR 201.010.

A student athlete who has been removed from play may not return to play until the student athlete receives appropriate medical clearance as set forth in 105 CMR 201.011.

(Ord. 2012 c. 5 § 1)

12-15.3 Permitting Requirements.

Before the first use of a facility owned by the City of Boston, any independent athletic organization must certify on a form approved by the Boston Parks and Recreation Department or the Boston Center for Youth and Families that such organization requires training programs and has policies in place for its

coaches, athletes, referees, and athletic trainers including but not limited to the nature and risk of concussions and other sports-related head injuries; the prevention and management of such injuries; and, the criteria for removal from and return to physical participation. The independent athletic organization shall be responsible for verifying that its coaches, athletes, referees, and athletic trainers have received the required training and information and such organization shall be responsible for maintenance of such records.

Independent athletic organization shall mean a youth sports program organized for athletic competition or instruction for participants under the age of eighteen (18).
(Ord. 2012 c. 5 § 1)

CITY OF BOSTON CODE - ORDINANCES

CHAPTER XIII

RESERVED

CITY OF BOSTON CODE - ORDINANCES

CHAPTER XIV

LICENSING AND CONSUMER BOARDS, COMMITTEES AND OFFICERS

14-1 LICENSING BOARD.

No Ordinances Apply. See Special Statutes.
(CBC 1975 T14 c. 1)

14-2 COMMITTEE ON LICENSES.

14-2.1 Powers and Duties of Commissioner.

There shall be in the Building Department a Committee of the Public Safety Commission, known as the Committee on Licenses, consisting of the Building Commissioner, the Fire Commissioner and the Commissioner of Traffic and Parking, ex officio. Said Committee shall have the powers and perform the duties conferred or imposed on the Board of Street Commissioners by Chapter 148 of the General Laws, by Chapter 577 of the Acts of 1913 and by Chapter 349 of the Acts of 1953, and all acts in amendment thereof.

The Committee on Licenses shall not be subject to the supervision or control of the Building Commissioner except as he acts as a member thereof; but unless otherwise ordered by the Mayor, the Committee on Licenses shall not communicate with the Mayor, or make any annual or other report, except through the Building Commissioner.
(St. 1959 c. 203; Ord. 1962 c. 9 § 2; Ord. 1970 c. 5 § 2; Rev. Ord. 1961 (Sup. 1971) c. 9 § 11; CBC 1975 Ord. T14 § 50)

Cross-references:

*G.L. c. 148; St. 1913 c. 577; St. 1953 c. 349;
St. T. 8 c. 8*

14-3 DIRECTOR OF MARKETS.

No Ordinances Apply. See Special Statutes.
(CBC 1975 Ord. T14 c. 5)

14-4 REGULATION UNDER POLICE POWERS.

No Ordinances Apply. See Special Statutes.
(CBC 1975 Ord. T14 c. 7)

14-5 DOG OFFICER.

14-5.1 Duties of Dog Officer.

The Dog Officer appointed under Section 151 of Chapter 140 of the General Laws, or the domestic charitable corporation from time to time performing by contract the duties of Dog Officer in accordance with said section, shall apprehend and impound any dog found running at large in any street or public place within the City in violation of Subsection 16-1.9 of these ordinances. Upon apprehending or receiving any such dog the Dog Officer or domestic charitable corporation performing duties as aforesaid shall make a complete registry, entering the breed, color, and sex of such dog, whether or not such dog is licensed, and, if such dog is licensed, the name and address of the owner and the number of the license tag. The Dog Officer or domestic charitable corporation performing duties as aforesaid shall as soon as possible notify the owner of any such dog, if known, that the dog has been impounded, and shall return any dog so impounded to the owner thereof upon payment of all costs and charges incurred by the Dog Officer or by such domestic charitable corporation in connection with the apprehension and detention of such dog and, if such dog is unlicensed when apprehended, upon presentation of a license for such dog secured from the Police Commissioner by the owner thereof.

The Listing Board or its agents shall give to each owner or harbinger of an unlicensed dog the form of application for a dog license that may from time to time be prescribed by the Police Commissioner, with as many duplicate copies of the same as may be

required by the Police Commissioner, and shall inform each such owner or harborer of the procedure, if any, that may be from time to time established by the Police Commissioner for submitting such application and securing such license by mail.

(Ord. 1972 c. 15 § 1; CBC 1975 Ord. T14 § 500)

Cross-references:

G.L. c. 140 § 151; Ord. ss 2-4.1; Ord. ss 16-1.9

using for that purpose such media of communication as the Council shall from time to time adjudge appropriate; and shall pursue a course of action to insure to the fullest possible extent that all laws enacted for the benefit of consumers are duly enforced.

(Rev. Ord. 1961 (Sup. 1971) c. 10A § 2; CBC 1975 Ord. T14 § 201)

14-6 CONSUMERS' COUNCIL.

14-6.1 Composition of Board.

There shall be in the City a Board, known as the Boston Consumer's Council, consisting of the Corporation Counsel or his designee, the Sealer of Weights and Measures or his designee, the Commissioner of Health and Hospitals or his designee, a person appointed by the Mayor after consultation with the Consumers' Council of the Commonwealth, and three (3) other persons appointed by the Mayor, at least two (2) of whom shall be persons of low income. Each of the persons appointed by the Mayor shall serve for a term expiring on the first Monday of the January following the next biennial municipal election at which a Mayor is elected. The Mayor shall from time to time designate one of the members of the Council as Chairman and another as Vice-Chairman. All members of the Council shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. The Council shall meet every other month, and at other times at the call of the Chairman.

The Mayor shall designate an employee of his office to serve as Executive Secretary of the Council; and the Council may appoint a clerical assistant.

(Ord. 1968 c. 15; Rev. Ord. 1961 (Sup. 1971) c. 10A § 1; CBC 1975 Ord. T14 § 200)

Cross-references:

Ord. ss 2-7.1; Ord. ss 5-5.1; Statutes, Title 9 § 10; Ord. ss 12-1.1

14-6.2 Duties.

The Boston Consumers' Council shall conduct studies, investigations and research in matters affecting consumer interests; shall keep consumers in the City informed on matters affecting their interests,

CHAPTER XV

DIVISIONS OF THE MAYOR'S OFFICE

15-1 COMMISSION ON WOMEN.

Editor's Note:

Ch. 35 of the Ordinance of 1984 established within the Mayor's Office a Division to be known as the Commission on Women. A decision of the Mass. Appeals Court 24 Mass. App. Ct. 633, presently under appeal, however held said ordinance invalid.

15-2 HOME WEATHERIZATION PROGRAM.

15-2.1 Program Established; Purpose and Duties.

There shall be, within the Mayor's Office, a program to be known as the Home Weatherization Program. The Home Weatherization Program shall conduct public seminars on home weatherization in each district of the City of Boston; shall coordinate with private, nonprofit agencies the conduct of home energy audits for Boston grants, low interest loans and market rate-loans to be administered by local lending institutions and public utilities for residents of the City of Boston. The Home Weatherization Program shall, on May 1 of each year, submit a report on the program's activities covering the twelve (12) month period ending the previous March 31, to the Mayor and the City Council.
(Ord. 1984 c. 25 § 1)

15-2.2 Administration by Neighborhood Development and Employment Agency.

The program described herein shall be administered totally by the Neighborhood Development and Employment Agency (NDEA) of the City of Boston.
(Ord. 1984 c. 25 § 2)

15-3 OFFICE OF BUSINESS AND CULTURAL DEVELOPMENT.

15-3.1 Office Established; Appointment of Director.

There shall be within the Mayor's Office a Division to be known as the Office of Business and Cultural Development which shall be under the charge of an officer, known as the Director, appointed by the Mayor and who shall serve at the pleasure of the Mayor and who shall have the powers of a department head with respect to execution of contracts and matters of personnel management within said office.
(Ord. 1984 c. 15 § 1)

Cross-reference:

See Section 2-7.1, Appointments by the Mayor

15-3.2 Powers and Duties.

The Office of Business and Cultural Development shall be responsible:

- a. To develop opportunities for new business for Boston's neighborhood's and its downtown area;
- b. To retain business and job opportunities;
- c. To promote trade, tourism and convention opportunities;
- d. To enhance the cultural aspects of life, particularly in Boston's neighborhoods;
- e. To conduct annual and special celebrations in such a way that the concerns are met as well as attracting business and cultural quality and revenue to the neighborhoods and the downtown area;
- f. To establish, promote, and support (with technical assistance) advisory groups to neighborhood,

minority, women's and other business and cultural groups.
(Ord. 1984 c. 15 § 2)

15-4 OFFICE OF CONSTITUENT SERVICES.

15-4.1 Office Established; Appointment of Director.

There shall be within the Mayor's office a Division to be known as the Office of Constituent Services which shall be under the charge of an officer, known as the Director, appointed by the Mayor and who shall serve at the pleasure of the Mayor and who shall have the powers of a department head with respect to execution of contracts and matters of personnel management within said office.
(Ord. 1984 c. 14 § 1)

15-4.2 Powers and Duties.

The Office of Constituent Services will receive and respond to problems and requests for service by individuals and community groups. It will make referrals to City departments, where appropriate, for such services, or provide advice in regard to other levels of government or private sector agencies, if City services are not involved.

This office will coordinate the twenty-four (24) hour service emergency center.

It will make policy recommendations to the Mayor based on complaint information received from citizens.
(Ord. 1984 c. 14 § 2)

15-5 OFFICE OF CONSUMER AFFAIRS AND LICENSING.

15-5.1 Office Established; Appointment of Director.

There shall be within the Mayor's Office a Division to be known as the Office of Consumer Affairs and Licensing which shall be under the charge of an officer, known as the Director, appointed by the Mayor and who shall serve at the pleasure of the

Mayor and who shall have the powers of a department head with respect to execution of contracts and matters of personnel management within said office.
(Ord. 1984 c. 12 § 1)

15-5.2 Divisions Established; Duties.

The Office of Consumer Affairs and Licensing shall contain two (2) divisions as follows:

- a. The Licensing Division which at the direction of the Mayor shall be responsible for the regulation of Boston's entertainment industry as set forth by applicable law;
- b. The Consumer Affairs Division which shall mediate, educate and advocate on behalf of the City's consumers.
(Ord. 1984 c. 12 § 2)

15-6 OFFICE OF INFORMATIONAL SERVICES.

15-6.1 Office Established; Appointment of Director.

There shall be within the Mayor's Office a Division to be known as the Office of Informational Services which shall be under the charge of an officer, known as the Director, appointed by the Mayor and who shall serve at the pleasure of the Mayor and who shall have the powers of a department head with respect to execution of contracts and matters of personnel management within said office.
(Ord. 1984 c. 13 § 1)

15-6.2 Powers and Duties.

The Office of Informational Services will initiate programs which improve public understanding of City government. Its programs shall be designed to enable citizens to take full advantage of the resources of municipal government at their disposal. It will also respond to requests for information about operations of City government coming from the public.
(Ord. 1984 c. 13 § 2)

15-7 OFFICE OF POLICY MANAGEMENT.**15-7.1 Office Established; Appointment of Director.**

There shall be within the Mayor's Office a Division to be known as the Office of Policy Management, which shall be under the charge of an officer to be known as the Director of the Office of Policy Management, who shall be appointed by the Mayor, and who shall serve at the pleasure of the Mayor. The Director shall have the powers of a department head with respect to execution of contracts and matters of personnel management within the office.

(Ord. 1982 c. 30 § 1)

15-7.2 Duties.

The Office of Policy Management shall develop methods of implementing and of testing the efficiency and effectiveness of policies and programs of the Mayor and several City departments subject to the Mayor's supervision and control.

(Ord. 1982 c. 30 § 1)

15-8 OFFICE OF PUBLIC INFORMATION.**15-8.1 Office Established; Appointment of Director.**

There shall be within the Mayor's Office a Division to be known as the Office of Public Information, which shall be under the charge of an officer to be known as the Director of the Office of Public Information, who shall be appointed by the Mayor, and who shall serve at the pleasure of the Mayor. The Director shall have the powers of a department head with respect to execution of contracts and matters of personnel management within the office.

(Ord. 1982 c. 29 § 1)

15-8.2 Duties.

The Office of Public Information shall coordinate and manage the collection of dissemination of information to the public for the several departments subject to the supervision and control of the Mayor.

(Ord. 1982 c. 29 § 1)

15-9 THE OFFICE OF THE ARTS AND HUMANITIES.**15-9.1 Established; Appointment of Executive Director.**

There shall be and hereby is established within the Mayor's Office a division known as the Office of the Arts and Humanities, to be under the charge of an officer, known as the Executive Director, to be appointed by the Mayor for a term expiring the first Monday in January following the next biennial election at which a Mayor is elected.

(Ord. 1986 c. 4 § 1)

15-9.2 Arts and Humanities Advisory Commission.

Within the office of the arts and humanities there shall be a Board known as the Arts and Humanities Advisory Commission, consisting of thirteen (13) individuals appointed by the Mayor from citywide, neighborhood or community cultural organizations and the community at large. Each member shall be appointed for terms of two (2) years, ending on the 30th of April; provided, however, that the Mayor shall designate seven (7) of the initial members for terms expiring April 30, 1987 and six (6) for terms expiring April 30, 1988. All members of the Arts and Humanities Commission shall be residents of Boston. The Mayor shall appoint one member to serve as Chair at his pleasure. No member of the Commission shall receive compensation other than reimbursement for reasonable expenses incurred in connection with service on the commission. Member of the commission shall be deemed "special municipal employees" in accordance with Chapter 268A of the General Laws.

(Ord. 1986 c. 4 § 1)

15-9.3 Duties of Executive Director.

The Executive Director shall: administer City art programs; seek and apply for grants in the area of the arts and humanities from any source, public or private, do research, conduct educational programs and disseminate information to the public regarding the fine and performing arts; administer grants to benefit the arts and individual artists; coordinate with public and private agencies the development of the arts in the City of Boston; serve as liaison with all other local, State and Federal Departments and public or

private agencies connected with the arts; coordinate with the Art Commission the promotion of new and the restoration of existing public art.

(Ord. 1986 c. 4 § 1)

15-9.4 Duties of the Advisory Commission.

The Advisory Commission shall: survey and assess the needs of the arts, both visual and performing within the City of Boston; identify existing legislation, policies and programs which affect the arts and evaluate their effectiveness; encourage the use of local resources for the development and support of the arts; make application for gifts of grants from the United States, the Commonwealth of Massachusetts, their agencies or officers including without limitation the National Endowment of the Arts, the Massachusetts Arts Lottery Council and the Massachusetts Council on the Arts and Humanities; and from any person, firm or corporation, of services, equipment, supplies, materials or funds, and may make grants in accordance with the law.

(Ord. 1986 c. 4 § 1)

15-9.5 Quarterly Reports.

The Executive Director, in consultation with the Chair of the Commission, shall make quarterly reports to the Mayor and the City Council concerning receipts and expenditures of funds of the arts.

(Ord. 1986 c. 4 § 1)

15-10 CREATING THE POSITION OF MUNICIPAL AFFIRMATIVE ACTION OFFICER.

15-10.1 Declaration of Policy.

The City of Boston presently has a racially and ethnically diverse population. However, this population diversity is not proportionately reflected within all levels of the City's employment profile, nor in the profile of businesses securing contracts with the City. The City's administration should ensure that this diverse population is reflected in its employment profile and in its procurement system. The City should also utilize its power and influence to persuade the private business sector to reflect this minority population among its employees. Furthermore, women and minorities have established innumerable

businesses which have not received a fair share of the millions of dollars that the City contracts out for goods, services, and construction. There must be a concerted effort to ensure women and minority businesses a greater share of City contracts. It is hereby declared that nondiscrimination and equal opportunity shall be the policy of the City of Boston in all of its decisions, programs and activities. To that end, each executive officer serving under the Mayor, and all City employees shall rigorously take affirmative steps to ensure equality of opportunity in the internal affairs of City government, as well as in their relations with the public, including those persons and organizations doing business with the City. Each agency, in discharging its statutory responsibilities, shall consider the likely effects which its decisions, programs and activities shall have in meeting the goal of equality of opportunity. Affirmative action requires more than vigilance in the elimination of discriminatory barriers to employment on the grounds of race, color, religion, creed, ancestry, national origin, age, sex, gender identity or expression, sexual orientation and handicap. It requires positive and aggressive measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rate of compensation, in service or apprenticeship training programs, and all terms and conditions of employment. Affirmative Action shall include efforts required to remedy all unfair employment practices, and any action necessary to guarantee equal employment opportunity and access to City contracts for all people.

(Ord. 1987 c. 15 § 1; Ord. 2002 c. 9)

15-10.2 Definitions.

As used hereinafter:

a. The term "Agency" shall mean the unit of government, within the structure of the City of Boston that is responsible for the application, administration and execution of the policy defined in subsection 15-10.1.

b. The term "City" shall mean the City of Boston.

c. The term "MAAO" shall mean Municipal Affirmative Action Officer.

d. The term "*Minority*" shall mean a person who is Black, Hispanic, Asian, Native American or Cape Verdean.

e. The term "*Minority Business*" shall mean any sole proprietorship, partnership or corporation owned, operated, and controlled by minority group members who possess at least fifty-one (51%) percent ownership. The minority group member(s) must have operational and managerial control, interest in capital, and earnings commensurate with the percentage of minority ownership. The MAAO may seek assistance from the Massachusetts State Office of Minority Business Assistance to determine appropriate qualifications and qualified businesses.

f. The term "*WMBE*" shall mean Women and Minority Business Enterprise.

g. The term "*Women's Business*" shall mean a sole proprietorship, partnership or corporation owned, operated, and controlled by women who possess at least fifty-one (51%) percent ownership. The women must have operational and managerial control, interest in capital, and earnings commensurate with the percentage of women ownership.
(Ord. 1987 c. 15 § 2)

15-10.3 Creation of Position of Municipal Affirmative Action Officer; Duties.

There is hereby established within the Mayor's office a position to be known as Municipal Affirmative Action Officer; said position to be filled by appointment by the Mayor for a term expiring on the first Monday of January following the next biennial election who shall have the powers and perform the duties imposed by law. The Mayor shall appoint the MAAO within sixty (60) days of passage of this section.

The Municipal Affirmative Action Officer shall be the chief Affirmative Action Officer for internal employment for the City and shall have oversight of the City's policy of nondiscrimination, equal opportunity, and affirmative action. (Ord. 1987 c. 15 § 3)

Editor's Note:

This section was passed by the City Council on July 22, 1987.

15-10.4 Duties of the Municipal Affirmative Action Officer.

The Municipal Affirmative Action Officer shall:

a. Recommend appropriate standards and procedures governing the preparation, submission, and review of affirmative action plans by all Agencies.

b. Give final approval or disapproval of all affirmative action plans prepared by such Agencies and appointing authorities as submitted by all City Agencies, Departments and Commissions.

c. Conduct an ongoing review of affirmative action plans and their implementation to assure that they comply with such plans and the intent of this section.

d. Establish a uniform grievance procedure which shall be available to any person subject to this section, including applicants, as well as employees, to determine any and all issues arising from this section and related to affirmative action plans.

e. Report from time to time, but at least every three (3) months, to the Mayor and the City Council on the progress being made by the Agencies in administering their affirmative action plans. The MAAO shall submit an annual report to the Mayor and City Council with details and figures documenting, by Agency and Department, progress made towards realizing this section's goals. The report shall include an identification of problems and specific recommendations for increasing the City's performance.

f. Ensure that the City's personnel system is operated in ways which provide assistance to appointing authorities in meeting the affirmative action goals.

g. Require departmental Affirmative Action Officers to submit information on the status of their affirmative action plans on at least a quarterly basis, and whenever the MAAO deems necessary.
(Ord. 1987 c. 15 § 3)

**15-10.5 Additional Duties for the MAAO;
Requirements of the WMBE
Procurement Plan.**

The MAAO shall also monitor the implementation of the Boston Jobs Residency Program and develop a Women and Minority Business Enterprise Procurement Plan to increase the number of women and minority businesses securing contracts with the City. The City-wide annual goal for the Procurement Plan shall be not less than fifteen (15%) percent for minority business enterprises and not less than ten (10%) percent for women business enterprises.

Each Agency shall designate a senior staff person, who shall report directly to the MAAO and who shall be responsible for coordinating the development and implementation of the WMBE Procurement Plan within its respective Agency.

Each plan shall include, but not be limited to, the following:

a. By category (supplies and equipment, services and construction), a statement of the estimated total procurement dollars to be spent during the current fiscal year, the amount spent with WMBEs during the previous fiscal year, the amount projected to be spent with WMBEs during the current fiscal year, and the amount projected to be spent with WMBEs during the next fiscal year.

b. A description of the methods, procedures and programs to be implemented in order to be in compliance with the provisions of this section. The program initiatives may include but shall not be limited to the following:

1. Targeting some bid invitations to WMBEs.

2. Promoting joint ventures between WMBEs and non-WMBEs.

3. Requiring prime contractors to subcontract a minimum amount of work on projects to WMBEs.

4. Designating WMBEs as preferred vendors when submitting requests to the Purchasing agent.

5. Dividing large contracts into smaller units to afford opportunities for WMBEs, where legally permissible.

c. A plan for requiring each contractor who is granted a City contract; for supplies and equipment, services and construction, to submit to the contracting agency an affirmative action plan that includes the purchase of supplies, equipment and services from WMBEs as well as its compliance with the provisions of this section and the Boston Jobs Residency Ordinance.

(Ord. 1987 c. 15 § 4)

CHAPTER XVI

PROHIBITIONS, PENALTIES AND PERMITS

Editor's Note:

For a history of many of the sections in this Chapter, see Rev. Ord. 1961 and 1971 Supplement. See also Ord. 1972 c. 1, c. 10, c. 15; Ord. 1973 c.4; Ord. 1975 c.2

16-A1 LICENSE AND PERMIT DENIAL, REVOCATION OR SUSPENSION.

The City is hereby authorized to deny any application for, or to revoke or suspend any license or permit, including renewals and transfers thereof, issued by any City board, officer or department for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, in accordance with the following provisions:

a. The Collector-Treasurer shall annually furnish to each City department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits, including renewals and transfers thereof, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve (12) month period, and that has not filed in good faith a pending application for an abatement of such taxes or a pending petition before the Appellate Tax Board.

b. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers thereof, of any party whose name appears on said list furnished to the licensing authority from the Collector-Treasurer; provided, however, that written notice is given to the party and the Collector-Treasurer, as required by applicable provisions of law, and that the party is given a hearing by the licensing authority, to be held not earlier than fourteen (14) days after the licensing authority sends said

notice by regular mail to the party. Said list shall be prima facie evidence for the denial, revocation or suspension of said license or permit to any party. The Collector-Treasurer shall have the right to intervene in any hearing conducted with respect to such license or permit denial, revocation or suspension. Any findings made by the licensing authority with respect to such license or permit denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license or permit denial, revocation or suspension. Any license or permit denied, revoked or suspended under this section shall not be reissued, renewed or transferred until the licensing authority receives a certificate issued by the Collector-Treasurer that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the City as of the date of issuance of said certificate.

c. Any party shall be given an opportunity to enter into a payment agreement with the Collector-Treasurer, thereby allowing the licensing authority to issue a certificate which indicates the conditions of the agreement upon which the license or permit is granted, and the validity of said license or permit shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the revocation or suspension of said license or permit; provided, however, that the party be given notice and a hearing as required by applicable provisions of law.

d. The licensing authority may waive the denial, revocation or suspension of a license or permit to a party if he finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in G.L. c. 268A, § 1, in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning permits, G.L. c. 48, § 13; bicycle permits, G.L. c. 85, § 11A; licenses for the sale of articles for charitable purposes, G.L. c. 101, § 33; children work permits, G.L. c. 149, § 69; licenses for clubs, societies, associations or other organizations dispensing food or beverages, G.L. c. 140, § 21E; dog licenses, G.L. c. 140, § 137; fishing, hunting, and trapping licenses, G.L. c. 131, § 12; marriage licenses, G.L. c. 207, § 28; and licenses for theatrical events, public exhibitions and the like issued pursuant to G.L. c. 140, § 181.

The City may exclude any other local license or permit from this section by amending this section. (Ord. 1992 c. 6 § 1)

16-A2 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECKS REQUIRED FOR CERTAIN LICENSES

The City is hereby authorized to deny any application for, or to revoke or suspend any license or permit, including renewals and transfers thereof, issued by any City board, officer or department for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to section 11-1.8 of the City of Boston Code.

The City may exclude any other local license or permit from this section by amending this section. (Ord. 2011 c. 2)

16-1 HEALTH.

16-1.1 Fish.

a. *Reserved.* (CBC 1975 Ord. T14 s. 250; Repealed by Ord. 1991 c. 5 § 1)

b. *Fish for Sale; Requirements.* No person shall have in his possession with intent to sell, fish of any kind, except flounders, smelts, and other small fish, salmon and shad, until the same have been cleansed of their entrails and other refuse parts, or fish of any kind unless they are kept in covered stalls or fish-boxes or covered carts, which shall be clean and in good order and well secured from the rays of the sun. (CBC 1975 Ord. T14 § 250; Ord. 1991 c. 5 § 1)

16-1.2 Reserved.

(CBC 1975 Ord. T14 § 251; Repealed by Ord. 1991 c. 5 § 2)

16-1.3 Decayed Food.

No person shall bring into the City, or have in his possession with intent to sell, any decayed or damaged fruit, vegetable or animal substance, except in accordance with a permit from the Division of Health Inspections, Inspectional Services Department. (CBC 1975 Ord. T14 § 252; 1991 c. 5 § 3)

16-1.4 Reserved.

(Ord. 1976 c. 11 § 2; Repealed by Ord. 1991 c. 5 § 4)

16-1.4A Bakery - Food Products, Retail Sale of.

No person shall carry on the business of a bakery, nor sell at retail: meat, produce, dry groceries, dairy products, frozen foods or any other food products without a permit issued by the Division of Health Inspections, Inspectional Services Department under the authority of the State Sanitary Code. (Ord. 1991 c. 5 § 4)

16-1.5 Reserved.

(Ord. 1976 c. 11 § 2; Repealed by Ord. 1991 c. 5 § 4)

16-1.6 Reserved.

(Ord. 1977 c. 9; Repealed by Ord. 1991 c. 5 § 4)

16-1.7 Permit for Catered Functions.

Caterers who provide catering services to functions within the City and whose establishments are not licensed by the Division of Health Inspections, Inspectional Services Department but who are required to register with the Division of Health Inspections, Inspectional Services Department pursuant to the State Sanitary Code, must have a permit from the Division of Health Inspections, Inspectional Services Department for each function for which a registration is so required by said Code. (Ord. 1981 c. 34; Ord. 1991 c. 5 § 5)

16-1.8 Reserved.

(CBC 1975 Ord. T14 § 253; Repealed by Ord. 1991 c. 5 § 6) Penalty, see subsection 16-32.6

16-1.8A Live Fowl, Farm Animals.

No person shall keep any live fowl or other farm animals, except in accordance with a permit from the

Division of Health Inspections, Inspectional Services Department.
(Ord. 1991 c. 5 § 6) Penalty, see subsection 16-32.6

16-1.9 Restraining Dogs.

No person owning or harboring a dog shall suffer or allow it to worry, wound, or attack any person, nor to be so unreasonably noisy as to disturb the peace, nor shall such person suffer or allow it to go upon the premises of another without the permission of the owner or occupant of such premises. No person owning or harboring a dog shall suffer or allow it to run at large in any street or public place in the City, nor permit it to go upon any street or public place unless it is effectively restrained by a chain or leash not exceeding ten (10') feet in length. For the purposes of Section 173A of Chapter 140 of the General Laws this section shall be deemed an ordinance made under the provisions of Section 173 of said Chapter 140.

(CBC 1975 Ord. T14 § 254; Ord. 1976 c. 7 § 1) Penalty, see subsections 16-1.9A, 16-32.6

16-1.9A Fines for Violation.

Violations of subsection 16-1.9 shall be punished as follows:

- a. For the first offense in a calendar year - a warning notice to the dog owner.
- b. For the second offense in a calendar year - a fine of twenty-five (\$25.00) dollars.
- c. For the third offense in a calendar year - a fine of thirty (\$30.00) dollars.
- d. For the fourth and each subsequent offense in a calendar year - a fine of fifty (\$50.00) dollars.
(Ord. 1991 c. 5 § 7)

16-1.9B Dangerous or Vicious Dogs.

a. A "dangerous or vicious" dog as the term is used in this section shall mean

1. Any dog that has bitten or attacked any person and any dog that has attempted to bite or attack any person. A dog shall be deemed to be attempting to attack if it is restrained by a leash, fence or other means, and it is clear from the dog's excited actions

that only the presence of the leash, fence or other means of restraint is preventing the dog from making an immediate attack.

2. Any dog with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of domestic animals.

Such incidents shall be evidenced by verified reports of the Dog Officer and shall be governed by the procedures delineated in G.L. c. 140, § 157.

When a dog is deemed to be vicious, the Office of Animal Control may order any or all of the following:

1. Spay or neutering
2. Microchip Identification
3. Behavior Training

b. An "owner or keeper" of a vicious dog shall mean an individual who is the registered owner as well as an individual who keeps, harbors, or possesses a vicious dog.

c. While on the owner's or keeper's property, a dangerous or vicious dog must be securely confined indoors or in a securely enclosed and locked pen or structure of a type meeting standards established by the Dog Officer, suitable to prevent the entry of young children, and designed to prevent the animal from escaping. Such pen or structure must have a minimum dimension of five (5') feet by ten (10') feet and must be securely enclosed. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two (2') feet. The enclosure must also provide protection from the elements for the dog.

The owner or keeper shall display a sign or signs on his or her premises facing out from all sides of the premises warning that there is a dangerous or vicious dog on the property the location and design of which shall be determined by the Dog Officer. This sign should be visible and capable of being read from a public way or within twenty (20') feet of its placement. In addition, the owner shall conspicuously display a sign with a symbol warning children who cannot read of the presence of a dangerous or vicious dog.

The Dog Officer may permit a dangerous or vicious dog to be off the owner's or keeper's premises if it is muzzled and restrained by a lead or chain approved by the Dog Officer not exceeding three (3') feet in length and is under the control of an adult, able-bodied person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal. No dog designated as a dangerous dog shall be permitted at public festivals, carnivals, parades or similar events, without an event specific waiver from the Dog Officer.

The provisions of this Section regarding dangerous or vicious dogs shall not apply to animals owned by law enforcement agencies and used for law enforcement purposes.

d. The owner or keeper of any dangerous or vicious dog who fails to comply with the requirements as set forth in paragraph c. shall be subject to a fine of two hundred fifty (\$250.00) dollars for a first offense and five hundred (\$500.00) dollars for any subsequent offense. If said animal is found on property not owned or controlled by its owner or keeper, or not restrained in a secure area per paragraph c. of this section on two separate occasions within a twelve-month period as documented by the Dog Officer, said animal shall be forever banned from within the limits of the City.

e. Each day there exists a violation of any of the provisions of this section shall constitute and be punishable as a separate offense.

f. A dog shall not be considered legally licensed, pursuant to G.L. c. 140 §§ 137, 147, unless the owner is in full compliance with this section.

g. Compliance with the requirements of this section shall not be a defense to an order of disposal of a vicious dog pursuant to G.L. c. 140, § 157.

h. The City of Boston Dog Officer shall be required to record the breed of any dog quarantined because of biting a human being or another animal. On October 1st of each year the Dog Officer shall deliver to members of the City Council a report on the breeds of dogs that have bitten human beings or other animals during the previous year.
(Ord. 1996 c. 8 § 1; Ord. 2000 c. 4 § 1) Penalty, see subsection 16-32.6

16-1.9C Dog Registration and Licensing.

All the powers and duties associated with dog registration and licensing in the City of Boston, heretofore exercised by the Police Commissioner of the City of Boston and the Inspectional Services Department pursuant to G.L. c. 140 are hereby transferred to the Animal Control Unit of the Property Management Department. The following positions in the Property Management Department and the Inspectional Services Department shall be reclassified or transferred to and within the Property Management Department: the incumbent Executive Assistant responsible for Animal Control in the Property Management Department shall be reclassified to the position of Executive Assistant (Director of Animal Control); the incumbent Dog Officers in the Inspectional Services Department shall each be transferred to the position of Animal Control Officer to the Property Management Department; the incumbent Administrative Assistant in the Animal Control Unit of the Inspectional Services Department shall be transferred to the Property Management Department to the position of Administrative Assistant (Animal Control). Each of the aforementioned positions and each subject employee who immediately prior to such transfer or reclassification held an office or position subject to Civil Service Laws and Rules shall be appointed without examination or registration and shall upon such appointment retain all rights to retirement with pension that shall or would have accrued, and each such employee's service shall be deemed to be continuous to the same extent as if this transfer or reclassification had not taken place.

Pursuant to M.G. L. chapter 140, section 137, all dogs six (6) months of age and older in the City of Boston must be registered and licensed annually with the Animal Control Unit as established by CBC 7-9. (Ord. 1996 c. 8 § 6; Ord. 2000 c. 4 § 6; Ord. 2008 c. 6 § 1) Penalty, see subsection 16-32.6

16-1.9D Disposition of Fines.

To the extent permitted by G.L. c. 140, §172, fines collected pursuant to the provisions of Chapter XVI of the City of Boston Ordinances, subsection 16-1.9A and all dog registration and licensing fees collected pursuant to Chapter XVIII of the City of Boston Ordinances, subsection 18-1.4 (6-10) shall be

deposited into a revolving fund within the Animal Control Unit of the Property Management Department with disbursement at the direction of the Commissioner of Property Management, pursuant to the provisions of G.L. c. 44, §53E1/2, and shall be subject to annual authorization by the City Council with the approval of the Mayor. Said fund shall be utilized as follows: to reimburse for administrative costs to those City agencies which enforce this section and Chapter XVI of the City of Boston Ordinances, subsection 16-1.9 and for costs associated with licensing and registration. The total amount which may be expended from such fund in fiscal year 1997 shall not exceed amounts authorized under the aforesaid Section 53E1/2 of G.L. c. 140. (Ord. 1996 c. 8 § 2)

16-1.9E Responsible Pit Bull Ownership.

16-1.9E.1 Purpose.

Dogs known as Pit Bulls have generally exhibited traits such as (i) powerful instincts for dominance which naturally results in a proclivity for fighting; (ii) a strong prey drive, which, inspires a natural chase instinct that often results in their aggressive pursuit of cats, rabbits, other dogs, and human children; (iii) a stubbornness that results in sustained, unyielding aggressiveness once an attack begins; (iv) powerful jaws capable of crushing bones and hanging on to victims even while the animal withstands infliction of injury or pain; and (v) a combination of stamina, agility, strength, and "gameness" (the will to successfully complete a task). Judicial and legislative bodies have reacted by noting that the classification of Pit Bulls as dangerous animals has a rational basis in fact and that adopting controlling measures in order to reduce the likelihood of human injury bears a rational relationship to the governmental objective of preserving public health, public safety, and public welfare.

The City of Boston has experienced its share of violent Pit Bull attacks through numerous recent incidents, such as: in Hyde Park on March 24, 2003, a Pit Bull attacked another dog leading the owner to defend his dog, himself, and a nearby teenager with a fishing knife; in Dorchester on June 26, 2003, two Pit Bulls were involved in menacing a young boy, chasing

a Boston Police Officer, and lunging at and knocking down another Boston police Officer; the officers protected themselves with gunshots; in the South End in August 2003, a Pit Bull mauled and killed "Lucy," the family dog (a Maltese) of Superintendent of Boston Public Schools Thomas Payzant while his wife, Ellen Payzant, was walking in the neighborhood; in Roxbury on September 24, 2003, a Pit Bull mauled a victim and rushed a Boston Police Officer who was forced to defend himself with multiple gunshots.

The Boston City Council believes it is necessary to encourage responsible Pit Bull ownership by regulating, subject to certain exceptions with certain restrictions, Pit Bulls in order to fulfill its primary mandate to protect human health, safety, and welfare within the City of Boston. The assemblage of a task force that includes the valuable insights of Boston's dog owners is intended to assist the development and implementation of these sections while providing a forum to analyze and address the broad fundamental issues of dog and human co-existence in the City. (Ord. 2004 c. 4 § 1)

16-1.9E.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in CBC 16-1.9E.

a. *Animal Control Commission* means the Animal Control Commission of the City of Boston as identified in CBC 7-9 or its designee or agent or its successor.

b. *CBC* means the City of Boston Code of Ordinances.

c. *BPD* means the Boston Police Department or its successor.

d. *City* means the City of Boston.

e. *Commissioner of Inspectional Services* means the Commissioner of the Inspectional Services Department or his/her designee or agent.

f. *Commissioner of Boston Police Department* means the Commissioner of the Boston Police Department or his/her designee or agent.

g. *Dog Officer* means the Dog Officer of the City of Boston as identified in CBC 14-5 and CBC 16-1.9C or his/her designee or agent.

h. *ISD* means the City of Boston's Inspectional Services Department or its successor.

i. *Keeper* means any person who possesses, keeps, exercises control over, maintains, harbors, transports, or sells a Pit Bull whether or not that person is an Owner.

j. *Muzzle* means a restraining appliance made of metal, plastic, leather, cloth, or a combination of these materials that, when fitted and fastened over a Pit Bull's snout/mouth/head, prevents the Pit Bull from biting but allows room for the Pit Bull to breathe/pant.

k. *Owner* means any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports, or sells a Pit Bull.

l. *Pit Bull* includes, but is not limited to, any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog of mixed breed displaying the majority of physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds, such characteristics being identifiable even if there are technical deficiencies in any particular dog's conformance thereto; or any dog identifiable by a licensed veterinarian, animal control officer, or any other knowledgeable person whose identification is deemed credible by the Boston Police Department or the Dog Officer as having American Pit Bull Terrier, American Staffordshire Terrier, and/or Staffordshire Bull Terrier as any element of its breeding, or any dog registered or licensed as a Pit Bull. Specifically excepted from this definition is any dog with proof by American Kennel Club or United Kennel Club papers or by a written certification or written notice from a veterinarian licensed in the Commonwealth of Massachusetts that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier.

m. *Secure Temporary Enclosure* includes, but is not limited to, a secure enclosure used for purposes of transporting a Pit Bull and which includes a top and bottom permanently attached to the sides except for a securable door used for the ingress and egress of a Pit Bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the Pit Bull cannot exit the enclosure without human assistance.

(Ord. 2004 c. 4 § 1)

16-1.9E.3 Prohibition.

No person may own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the City any Pit Bull while in violation of any of the provisions of CBC 16-1.9E.

(Ord. 2004 c. 4 § 1)

16-1.9E.4 Registration and License.

All dogs shall be registered and licensed pursuant to CBC 16-1.9C, and all Pit Bulls shall be additionally registered and licensed pursuant to CBC 16-1.9E. In no event, however, may more than two (2) Pit Bulls may be registered, licensed, stored, housed, sheltered, or in any way located at a single household, except that puppy Pit Bulls less than nine (9) weeks old shall not be included for the sole purpose of this two-animal restriction.

a. Any Owner or Keeper having the ownership, custody, or control of a Pit Bull, as defined in CBC 16-1.9E.2, must annually register such Pit Bull with the Dog Officer on a form to be provided by the City. The registration form shall require (i) the complete legal name of the Pit Bull's Owner and/or Keeper and presentation of a positive form of government-issued picture identification (no photocopies) for the Owner and/or Keeper, and the Dog Officer shall make a copy of such identification and attach it to the application; (ii) the complete residential address of the Pit Bull's Owner and/or Keeper; (iii) the complete address where the Pit Bull will be primarily housed/sheltered; and (iv) the telephone number of the Pit Bull's Owner or Keeper; (v) the complete details of the Pit Bull's physical identification, including but not limited to breed, sex, weight, color, markings, and any other distinguishing physical characteristics, all provided by

the Owner and/or Keeper; (vi) a photograph of the Pit Bull that is not more than thirty (30) calendar days old; and (vii) the complete details of the Pit Bull's documented identification, including but not limited to the Pit Bull's registration and/or license number as issued by the City of Boston and true and accurate copies the Pit Bull's rabies vaccination and a copy of the Pit Bull's health record as prepared by a veterinarian which shall not be dated more than thirty (30) calendar days from the application for registration of the Pit Bull under this section.

b. The Owner or Keeper shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the spay/neuter restriction in this subsection. The Owner or Keeper, at the expense of the Owner or Keeper, shall have the Pit Bull spayed or neutered and, unless previously submitted, shall submit to the Dog Officer original or certified copy of documentary proof thereof from a licensed veterinarian. This requirement shall be waived upon a written statement from a licensed veterinarian that the procedure cannot or should not be performed for reasons of the health or age of the Pit Bull.

c. The Owner or Keeper shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the permission requirement in this sub-section. If the Owner or Keeper is not the owner of the premises at which the Pit Bull will be primarily housed/sheltered then the Owner or Keeper shall obtain the written permission of the landlord, lessor, property owner, or the duly authorized agent thereof for the presence and housing of the Pit Bull and, and unless previously submitted, shall submit the original written permission to the Dog Officer. A landlord, lessor, property owner, or the duly authorized agent thereof must approve in writing or deny in writing a request for permission within ten (10) business days; upon a showing that ten (10) business days have passed, the failure of a landlord, lessor, property owner, or the duly authorized agent thereof to respond shall be deemed to be approval.

d. The Owner or Keeper shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the specific requirements of CBC 16-1.9E.5 and attesting that

whenever the Pit Bull is away from the private property of the Owner or Keeper, specifically including but in no way limited to the streets, sidewalks, parks, and playgrounds of the City of Boston, that the Owner or Keeper will ensure that the Pit Bull is either (i) adequately and securely led and leashed by a person with the clear ability to physically control/restrain the leashed Pit Bull with the Pit Bull wearing a Muzzle or (ii) in a Secure Temporary Enclosure.

e. The Owner or Keeper shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the two-animal restriction in this section.

f. The Owner or Keeper shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the signage requirement in CBC 16-1.9E.6.

g. No Owner or Keeper registering a Pit Bull may be less than eighteen (18) years old.

h. The registration and license under this section is not transferable and shall be annually renewable only by the holder of the license.

i. The fee for the registration and license shall be fifty dollars and no cents (\$50.00).

j. Upon an Owner's or Keeper's successful application, the Dog Officer shall provide to the successful Owner or Keeper registering a Pit Bull (i) a Pit Bull license tag; (ii) a complete copy of the application for registration and license as submitted by the Owner or Keeper, (iii) a written summary of all methods for contacting the Dog Officer including but not limited to the Dog Officer's telephone number during business hours, the Dog Officer's telephone number during non-business hours, the telephone numbers for each and every district of the Boston Police Department, and the twenty-four (24)-hour helpline or hotline for the City, and (iv) a legible copy of CBC 16-1.9E.

k. The license tag issued by the Dog Officer pursuant to this section shall be attached to the Pit Bull by means of a collar or harness and shall not be attached to any Pit Bull other than the Pit Bull for

which the license tag was issued. If the Pit Bull license tag is lost or destroyed, a duplicate may be issued by the Dog Officer upon the Owner or Keeper's application and payment of a fee in the amount of twenty-five dollars and no cents (\$25.00). (Ord. 2004 c. 4 § 1)

16-1.9E.5 Adequate Control.

Supplementing the requirements of CBC 16-1.9 regarding the general restraint of dogs, at all times when a Pit Bull is away from the private property of the Owner or Keeper, specifically including but in no way limited to the streets, sidewalks, parks, and playgrounds of the City of Boston, the Owner or Keeper shall ensure that the Pit Bull is either (a) adequately and securely led and leashed by a person with the clear ability to physically control/restrain the leashed Pit Bull with the Pit Bull wearing a Muzzle or (b) in a Secure Temporary Enclosure. (Ord. 2004 c. 4 § 1)

16-1.9E.6 Signage and Enclosure.

An Owner or Keeper shall, whenever a Pit Bull is on the premises, display a sign advising all persons that a Pit Bull is located on the premises, and such sign shall be visible and legible from the further of (i) the nearest public or private way or (ii) one hundred feet (100'). In no event may the Pit Bull sign be less than eight and one-half inches (8.5") by eleven inches (11") in rectangular dimensions nor eleven inches (11") by eleven inches (11") in square dimensions. The sign shall announce "PIT BULL DOG" or "BEWARE OF DOG" in lettering not less than two inches (2") in height and in lettering that sharply contrasts with the background of the sign. The size of the lettering may be reduced with the written approval of the Dog Officer, but in no event shall the lettering be less than one and one-half inches (1.5") in height. (Ord. 2004 c. 4 § 1)

16-1.9E.7 Transfer/Sale.

No Owner or Keeper shall sell or otherwise transfer a Pit Bull to any person except a member of the Owner's or Keeper's immediate family.

No Owner or Keeper shall sell or otherwise transfer a Pit Bull to any person except a member of the Owner's or Keeper's immediate family without obtaining the approval of the Dog Officer who shall transfer the registration and license. Nothing in these sections shall be deemed to prevent the Dog Officer from requiring the transferee Owner or Keeper to apply for registration and license at the time of transfer or sale of the Pit Bull which will ensure that the transferee Owner or Keeper is exposed to the requirements and restrictions of CBC 16-1.9E. (Ord. 2004 c. 4 § 1)

16-1.9E.8 Notifications to Dog Officer.

Since the provisions of CBC 16-1.9E.4 restrict to two (2) the number of Pit Bulls that may be registered, stored, housed, sheltered, or in any way located at a single household, except that puppy Pit Bulls less than nine (9) weeks old shall not be included for the sole purpose of this restriction and any Pit Bulls (including puppies) kept contrary to the provisions of these sections are subject to immediate impoundment, then the Owner or Keeper shall notify the Dog Officer as follows:

a. Within twenty-four (24) hours if a Pit Bull is on the loose, at-large, unconfined, has mauled, bitten, attacked, threatened, or in any way menaced another animal, or has mauled, bitten, attacked, threatened, or in any way menaced a human;

b. Within seven (7) calendar days if a Pit Bull has died or has in any way permanently relocated;

c. Within fourteen (14) calendar days if a Pit Bull becomes pregnant; and

d. Within seven (7) calendar days if a Pit Bull has a litter of puppies.

Although such notifications may be made in writing, the Owner or Keeper may make such notifications by telephone during normal business hours in the event of a non-emergency, wherein the Dog Officer shall make a written record thereof and the Owner or Keeper shall make his/her own written record thereof. (Ord. 2004 c. 4 § 1)

16-1.9E.9 Exceptions.

Two exceptions to the provisions of CBC 16-1.9E are as follows:

a. *Contest, Show, or Exhibition.* An Owner or Keeper may transport into and hold in the City a Pit Bull for a temporary period not to exceed fourteen (14) calendar days and only for the purpose of showing the Owner's or Keeper's Pit Bull in a contest, show, or other exhibition sponsored by a dog club association or similar organization. No later than the twenty-first (21st) calendar day prior to the contest, show, or other exhibition, the sponsor/organizer of the contest, show, or exhibition must notify the Dog Officer in writing of the event and the sponsor/organizer of the contest, show, or exhibition must obtain any permits or licenses required by the ordinances, orders, rules, regulations, and/or policies of the City of Boston or required by the laws, orders, rules, regulations, and/or policies of the Commonwealth of Massachusetts; the sponsor/organizer of the contest, show, or other exhibition must provide adequate measures to prevent Pit Bulls from injuring the public. The Owner or Keeper of a Pit Bull so transported or held shall, at all times when the Pit Bull is being transported within the City keep the Pit Bull confined in a Secure Temporary Enclosure and must place a conspicuous sign complying with the requirements of these sections on the Secure Temporary Enclosure.

b. *Governmental Entity.* No governmental entity nor any person authorized by a governmental entity that owns, keeps, or harbors a Pit Bull for law enforcement activities shall be subject to these sections.
(Ord. 2004 c. 4 § 1)

16-1.9E. 10 Impoundment; Investigation; Redemption.

a. *Impoundment.* Any Pit Bull found by the Dog Officer or any member of the Boston Police Department to be on the loose, at-large, or unconfined, or which has been observed by the Dog Officer or any member of the Boston Police Department to have mauled, bitten, attacked, threatened, or in any way menaced another animal or

human shall be presumed to be in violation of CBC 16-1.9E and shall be subject to immediate impoundment.

The Dog Officer is authorized to immediately impound any Pit Bull in violation of CBC 16-1.9E and which does not fall within the exceptions listed therein. The Dog Officer is authorized to house and/or dispose of any impounded Pit Bull at his/her sole professional discretion.

b. *Investigation.* The Dog Officer is empowered to make whatever inquiry or investigation is deemed necessary to ensure compliance with the provisions of CBC 16-1.9E. The Dog Officer is empowered to seize and impound any Pit Bull found to be in violation of CBC 16-1.9E or any Pit Bull for which the Owner or Keeper has failed to comply with the provisions of CBC 16-1.9E.

c. *Redemption.* The Dog Officer shall not release a Pit Bull from impoundment unless the Owner or Keeper (i) provides proof of registration and license satisfactory to the Dog Officer, (ii) provides adequate proof that any violations of CBC 16-1.9E have been corrected in a manner satisfactory to the Dog Officer, (iii) remits payment to the Dog Officer of all fines issued pursuant to violations under CBC 16-1.9 through CBC 16-1.9E, and (iv) remits payment to the Dog Officer for the costs associated with the impounding of the Pit Bull and the term of impoundment of the Pit Bull.
(Ord. 2004 c. 4 § 1)

16-1.9E.11 Enforcement and Penalties.

a. The Dog Officer and BPD shall each have the authority and shall cooperate with each other to the greatest extent possible to enforce the provisions of CBC 16-1.9E. ISD shall cooperate with the Dog Officer and BPD in offering support regarding the signage required under these sections. BPD and ISD shall notify the Dog Officer of any location or address at which a Pit Bull is observed.

b. A Pit Bull found in violation of CBC 16-1.9E shall be subject to immediate impoundment.

c. Any violation of CBC 16-1.9E shall be subject to a fine of one hundred dollars and no cents

(\$100.00), and the Owner's or Keeper's Pit Bull shall be subject to impoundment. Each day a violation exists shall be considered a separate and distinct violation.

d. CBC 16-1.9E shall be enforced under CBC 16-32.3
(Ord. 2004 c. 4 § 1)

16-1.9E.12 Appeal.

The Owner or Keeper of a dog that has been impounded pursuant to CBC 16-1.9E or that has been the subject of a citation for violation under CBC 16-1.9E may dispute the classification of such dog as a Pit Bull by filing a written petition with the Dog Officer for a hearing concerning such classification no later than seven (7) calendar days after the date of impoundment or citation. A petition shall include, but not be limited to, (i) the complete legal name and social security number of the Pit Bull's Owner and/or Keeper; (ii) the complete residential address of the Pit Bull's Owner and/or Keeper; (iii) the complete address where the Pit Bull is primarily housed/ sheltered; and (iv) the telephone number of the Pit Bull's Owner or Keeper; (v) the complete details of the Pit Bull's documented identification, including but not limited to the Pit Bull's registration and/or license number as issued by the City of Boston; and (vi) a summary of the facts that the petitioner wishes to introduce for consideration. The written petition shall be submitted under oath or affirmation.
(Ord. 2004 c. 4 § 1)

16-1.9E.13 Provocation.

No person may strike, bait, provoke, or in any way antagonize a Pit Bull in such a manner as to inspire or cause an attack by a Pit Bull. Any such provocation shall be considered a mitigating circumstance.
(Ord. 2004 c. 4 § 1)

16-1.9E.14 Inclusion.

The Dog Officer is authorized to expand the provisions of CBC 16-1.9E to include additional

breeds of dogs upon a written notice to the Boston City Council; such written notice shall include a cursory showing of the reasons for such expansion.
(Ord. 2004 c. 4 § 1)

16-1.9E.15 Task Force.

A task force may be established under this section which is intended and designed to provide a forum dedicated to guiding the development and use of these sections and the regulations promulgated hereunder. The task force shall be comprised of ten (10) volunteer members with five (5) members appointed by the Mayor, one of which shall be the Dog Officer, and five (5) members appointed by the City Council. The task force shall (i) study documented incidents of aggression of all breeds of dogs, (ii) study documented incidents of aggression from Pit Bulls, and (iii) supply written recommendations, with analysis and rationale, for amending or improving the relevant ordinances, regulations, fees, and practices no later than the fourth (4th) anniversary of the passage of these sections and no earlier than ninety (90) days before the fourth (4th) anniversary of the passage of these sections.
(Ord. 2004 c. 4 § 1)

16-1.9E.16 Harmonious Construction.

The provisions of CBC 16-1.9E shall supplement and be construed harmoniously with CBC 16-1.9, CBC 16-1.9A, CBC 16-1.9B, CBC 16-1.9C, CBC 16-1.9D, and Massachusetts General Laws Chapter 140.
(Ord. 2004 c. 4 § 1)

16-1.9E.17 Regulatory Authority.

The Dog Officer, BPD, and ISD shall have the authority to promulgate rules and regulations necessary to implement and enforce CBC 16-1.9E.
(Ord. 2004 c. 4 § 1)

16-1.9E.18 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then

such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2004 c. 4 § 1)

16-1.9E.19 Implementation.

The provisions of these sections shall be effective immediately upon passage and all provisions shall be enforced immediately but no monetary fine shall be imposed pursuant hereto until thirty (30) days after passage.

(Ord. 2004 c. 4 § 1)

16-1.9F Leasing of Licensed Dogs.

16-1.9F.1 Purpose.

The purpose of dog licensing is to foster owner accountability by ensuring that each dog is traceable to its owner. By requiring a dog to be licensed, liability for a dog's actions can easily be established and owners are responsible for ensuring the safety of the pet and others. This is especially important given that M.G.L. chapter 140, section 155 imposes strict liability upon the owner or keeper of a dog that causes bodily harm or property damage. Pursuant to M.G.L. chapter 140, section 147A and in order to advance the purposes of dog owner accountability, the City has the power to further regulate dog licensing. It is the intent of this section to protect and preserve public health, safety and wellness by prohibiting the leasing of licensed dogs. The City has a duty to monitor and regulate dog ownership via licensure. Allowing a licensed dog to be rented would create instability and uncertainty regarding the care and treatment of the animal, presumably resulting in aggressive and vicious conduct towards the lessee and public.

The Animal Control Unit shall have the authority to promulgate rules and regulations necessary to enforce this subsection.

(Ord. 2008 c. 6 § 2)

16-1.9F.2 Definitions.

As used in these sections, the following words shall, unless the context clearly requires otherwise, have the following meanings:

Keepership means harboring an animal with an assumption of custody, management, and control of the animal.

Pet business means anyone engaged in a business licensed under chapter 129 of the general laws.

Pet shelter means a public animal control facility, or any facility which is operated by any organization or individual for the purpose of protecting animals from cruelty, neglect, or abuse.

Police dog means any dog owned by police departments or police agencies of the commonwealth or any of its political subdivisions when such dogs are under the direct supervision, care and control of a police officer.

Professional handler/trainer means any person engaged in the breeding, training, and/or showing of another's dog for either of the following purposes: (i) entering the dog in a show or exhibition, or (ii) employing the dog in the entertainment field.

Leasing/renting means offering, or entering into, an agreement by which an owner or keeper of a licensed dog receives a fee in exchange for conveying the temporary right of keepership of a licensed dog.

Leasing does not include the following: temporary conveyance of police dogs or service animals; temporary conveyance of a dog to a research institution licensed under section 174D of chapter 140 of the general laws for medical or scientific purposes; temporary conveyance of a dog to a veterinarian or entity licensed under section 55 of chapter 112 of the general law for medical purposes; temporary conveyance of a dog to a kennel licensed under section 137A of chapter 140 of the general laws for the purposes of breeding, boarding, sale, training, or hunting; conveyance of a dog by a pet business, as defined in section 1, with the intent to permanently transfer title of the dog at the time of conveyance; or temporary conveyance of a dog by a pet shelter for the purposes of animal foster care or adoptions services only; or temporary conveyance of a dog to a professional trainer/handler.

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, altering individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items pursuant to 28 C.F.R. § 36.104.

(Ord. 2008 c. 6 § 2)

16-1.9F.3 Prohibition.

Pursuant to M.G.L chapter 140, section 137 and 147A and CBC 16-19.C, no licensed dog shall be leased or rented in the City of Boston.

(Ord. 2008 c. 6 § 2)

16-1.9F.4 Enforcement.

The Boston Police Department and/or the Animal Control Unit shall have the authority to enforce all violations of these sections.

(Ord. 2008 c. 6 § 2)

16-1.9F.5 Fines.

Any person or entity, except as provided by law, who rents or leases a dog in violation of CBC 16-1.9F.3 shall be fined three-hundred (\$300.00) dollars per leasing transaction. Each dog for lease or rent is a violation of CBC 16-1.9F.3. Any dog held in violation of these sections shall be seized or impounded by an organization or authorized agent thereof that is authorized to seize or impound an animal pursuant to the general laws. Any seizure or impoundment shall be governed by the general laws regulating the seizure of animals, including but not limited to sections 104 of chapter 272 of the general laws.

(Ord. 2008 c. 6 § 2)

16-1.9F.6 Severability.

If any provision of these sections or the application of these sections to any person or circumstance shall be held invalid by a court of competent jurisdiction, the validity of the remainder of these sections and the applicability of such sections to other persons or circumstances shall not be affected thereby.

(Ord. 2008 c. 6 § 2)

16-1.9F.7 Effective Date.

The provisions of these sections shall be effective upon passage.

(Ord. 2008 c. 6 § 2)

16-1.10 Keeping of Animals.

No person shall keep any animal upon any estate within the City, except in a place that is properly fitted out for the healthful and sanitary maintenance of that animal, nor shall any person keeping an animal allow any odor from such animal to escape the premises so as to disturb the peaceful enjoyment of the property of another.

(CBC 1975 Ord. T14 § 254A; Ord. 1976 c. 7, s 2)
Penalty, see subsection 16-32.6

16-1.10A Dog Fouling.

a. *Duty to Dispose.* It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, street or other public area. It shall further be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any private property neither owned nor occupied by said person.

b. *Duty to Possess Means of Removal.* No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, street, park or other public area without the means of removal of any feces left by such dog. Furthermore, no person who owns, possesses or controls such dog shall appear on any private property neither owned nor occupied by said person without the means of removal of any feces left by said dog.

c. *Method of Removal and Disposal.* For the purposes of this subsection, the means of removal shall be any plastic bag, tool, implement, or other device carried and used for the purpose of picking up and containing such feces, unexposed to said person and unexposed to the public. Disposal shall be accomplished by transporting such feces to a receptacle or other place suitable for the disposal of waste, trash, or debris.

d. *Fines of Violation.* Violation of this regulation shall be punished by a fine of fifty (\$50.00) dollars for each occurrence.

e. *Enforcement.* Violation of this regulation shall be enforced in accordance with law, provided, however, that, if simultaneously with the issuance of a complaint hereunder, a complaint is issued pursuant to G.L., c. 40, s. 21D, and that complaint is disposed of pursuant to said act and CBC, subsection 16-32.3, the complaint issued hereunder shall be deemed disposed of.

f. *Exemption.* This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this subsection, or any individual over sixty-five (65) years of age accompanying a licensed dog.

g. *Severability.* The provisions of this subsection are severable; and if any of the provisions of this subsection shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (CBC 1975 Ord. T14 § 291; Ord. 1979 c. 34; Recodified by Ord. 1991 c. 5 § 24; Ord. 2004 c. 13 § 2) Penalty, see subsection 16-32.6

16-1.11 Manure.

No owner or occupant of a building shall permit any manure to be therein, unless such building is used as a stable, or in that case permit more than two (2) cords of manure to accumulate or remain therein; nor shall any person permit any manure to remain uncovered on his grounds outside of his building, or permit his building or any grounds connected therewith to be foul or unclean. (CBC 1975 Ord. T14 § 255) Penalty, see subsection 16-32.6

16-1.12 Removal of Manure.

No person shall remove manure, or cause or suffer the same to be removed except in accordance

with a permit from the Division of Health Inspections, Inspectional Services Department, and except in a tight vehicle with a canvas cover so secured to the sides and ends as to prevent the manure from dropping while being removed.

(CBC 1975 Ord. T14 § 256; Ord. 1991 c. 5 § 8) Penalty, see subsection 16-32.6

16-1.13 Reserved.

(CBC 1975 Ord. T14 § 257; Repealed by Ord. 1991 c. 5 § 9) Penalty, see subsection 16-32.6

16-1.14 Reserved.

(CBC 1975 Ord. T14 § 258; Ord. 1986 c. 10 § 1; Recodified by Ord. 1991 c. 5 § 10) Penalty, see subsection 16-32.6

16-1.15 Reserved.

(CBC 1975 Ord. T14 § 259; Repealed by Ord. 1991 c. 5 § 11) Penalty, see subsection 16-32.6

16-1.16 Reserved.

(CBC 1975 Ord. T14 § 260; Repealed by Ord. 1991 c. 5 § 12) Penalty, see subsection 16-32.6

16-1.17 Reserved.

(CBC 1975 Ord. T14 § 261; Repealed by Ord. 1991 c. 5 § 13) Penalty, see subsection 16-32.6

16-1.18 Water-Closets.

No person shall maintain a water-closet, vault, or privy in an unwholesome, unclean, or improper place or condition.

(CBC 1975 Ord. T14 § 262) Penalty, see subsection 16-32.6

16-1.19 Reserved.

(CBC 1975 Ord. T14 § 263; Repealed by Ord. 1991 c. 5 § 14) Penalty, see subsection 16-32.6

16-1.19A Air Pollution Prohibited; Permit.

No person shall cause the atmosphere to be polluted, as defined by the regulations of the Air Pollution Control Commission except pursuant to a permit issued by said Commission which permit shall be prominently displayed at the site of said pollution. (Ord. 1988 c.15 § 1) Penalty, see subsection 16-32.6

that part of the passageway adjoining such land. No person shall discharge any waste water or water from a sink or water-closet, except through a drain into a sewer or cesspool or in accordance with a permit from the Division of Health Inspections, Inspectional Services Department.

(CBC 1975 Ord. T14 § 267; Ord. 1991 c. 5 § 17) Penalty, see subsection 16-32.6

16-1.20 Reserved.

(CBC 1975 Ord. T14 § 264; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28) Penalty, see subsection 16-32.6

16-1.20A Reserved.

(Ord. 1986 c.15 § 2; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28) Penalty, see subsection 16-32.6

16-1.21 Reserved.

(Ord. 1976 c.13 §§ 1, 2; Ord. 1981 c. 4 § 3; Ord. 1983 c. 34 §§ 2, 3, 4; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28)

Cross-reference:

Ord. c. XVII, Section 17-11.

16-1.22 Reserved.

(CBC 1975 Ord. 714 § 265; Repealed by Ord. 1991 c. 5 § 15)

16-1.23 Cesspools and Privies.

No person shall empty a cesspool, vault, or privy, except in accordance with a permit from the Division of Health Inspections, Inspectional Services Department.

(CBC 1975 Ord. T14 § 266; Ord. 1991 c. 5 § 16; Ord. 1992 c. 7 §§ 1, 2)

16-1.24 Sewage and Waste Water.

No owner or occupant of a building or of land shall suffer sewage or waste or stagnant water to remain in such building or upon such land. No owner or occupant of land abutting on a private passageway and having the right to use such passageway shall suffer any filth, waste, or stagnant water to remain on

16-1.25 Drains.

No person shall suffer any particular drain from any building or land of which he is the owner or occupant to leak or be out of repair; and no person shall, except in accordance with a permit from the Commission of Public Works, enter or attempt to enter a particular drain into a public drain or sewer. (CBC 1975 Ord. T14 § 268; Ord. 1991 c. 5 § 18; Ord. 1992 c. 7 § 3)

16-1.26 Reserved.

(Ord. 1988 c. 17 § 1; Recodified in Chapter XXIII by Ord. 1991 c. 5 §§ 19, 28) Penalty, see subsection 16-32.6

16-2 HAWKERS AND PEDDLERS.**16-2.1 Registration.**

No person shall hawk or peddle any fruits or vegetables or any of the articles enumerated in Section 17 of Chapter 101 of the General Laws and acts in amendment thereof or in addition thereto, until he has been assigned a number by the Division of Health Inspections, Inspectional Services Department, and until he has recorded with said Division, his name and residence, and until a recent photograph of said applicant shall be presented to the Division of Health Inspections, Inspectional Services Department, to be attached to his license (said photograph to be a passport size, - viz., two (2") inch by two (2") inch) and if he hawks or peddles articles which are sold by weight or measure, a certificate from the Sealer of Weights and Measures that all weights, measures and balances to be used by him have been properly inspected and sealed. The presence of unsealed weights or measures on the team, cart or person of such hawker or peddler shall terminate permission to hawk or peddle under such registration.

No person shall hawk or peddle any fruits or vegetables until he has obtained a license therefor from the Division of Health Inspections, Inspectional Services Department, unless he is engaged in the pursuit of agriculture or unless such articles are the product of his own labor or of the labor of his family.

The Division of Health Inspections, Inspectional Services Department is hereby authorized to grant licenses to hawk or peddle fruits and vegetables to persons sixteen (16) years of age or over who have complied with the foregoing requirements, such licenses to be for the term of one year from the date of issue.

The foregoing provisions shall not apply to minors licensed by the Mayor and City Council. (CBC 1975 Ord. T14 § 269; Ord. 1991 c. 5 § 20)

16-2.2 Crying of Wares.

No person hawking, peddling, selling, or exposing for sale any articles, shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the City, or in the neighborhood of school houses or of places used for divine worship. (CBC 1975 Ord. T14 § 270)

16-2.3 Tobacco Products, Distribution in Public Places.

No person shall, except at full retail price, in or upon any part of the streets, parks, public grounds, public buildings, other public places within the City of Boston distribute any product containing tobacco or non-tobacco cigarette products for any commercial purpose. (Ord. 1984 c. 22)

16-2.4 Vehicles and Receptacles.

No hawker or peddler shall carry or convey articles enumerated in Section 17 of Chapter 101 of the General Laws and acts in amendment thereof or in addition thereto, in a manner tending to injure or disturb the public health or comfort, or except in vehicles or receptacles which are neat and clean and do not leak, and which have printed on them in letters and figures at least two (2") inches in height the name of the person selling and the number given him by the Division of Health Inspections, Inspectional Services Department, and which are approved monthly by the Division of Health Inspections, Inspectional Services Department. (CBC 1975 Ord. T14 § 271; Ord. 1991 c. 5 § 21)

16-2.5 Sale of Propelled Novelty Substances Prohibited.

No person shall in or about any part of the streets, parks, public grounds, public buildings, or other public places sell or expose for sale any toy, amusement or novelty product fitted to propel, by compressed air or gas, any substance primarily intended for amusement or decoration, in the nature of "liquid string," so-called.

(Ord. 1994 c. 12 § 1) Penalty, see subsection 16-32.6

16-2.6 Improper Preparation of Food.

a. In the City, manufacturing, preparing, handling, serving and/or distributing food from any vehicle and/or pushcart and/or by any hawker, peddler or like transient vendor, as defined in Chapter 101 of the General Laws, without the use of sanitary gloves, shall be considered unsanitary or unhealthful conditions in accordance with Massachusetts General Laws, Chapter 94, Section 305A.

b. This section shall apply only to "Ready to Eat Food" as defined in the State Sanitary Code - 105 CMR 590.00.

c. Sanitary gloves shall be used in the following manner: a new pair shall be worn for each transaction.

(Ord. 2000 c. 1)

16-2.7 Hawkers, Peddlers Selling Goods, Wares or Merchandise.

No hawker or peddler may sell or barter or carry for sale or barter or expose therefor any goods, wares or merchandise, except as permitted in this chapter or by Sections 14 and 17 of Chapter 101 of the General Laws and Acts in amendment thereof or in addition thereto.

(Ord. 2008 c. 4) Penalty, see subsection 16-32.6

16-3 RESERVED.

(CBC 1975 Ord. T14 § 272; Repealed by Ord. 1991 c. 5 § 22)

16-4 TAKING OF SHELLFISH.

16-4.1 Family Use and Commercial Permits.

a. *Applications; Qualifications.* There shall be granted by the City Council "Family Use" Shellfish Permits and "Commercial Use" Shellfish Permits. A "Family Use" Shellfish Permit may be granted upon written application by any inhabitant of the Commonwealth; but a "Commercial Use" Shellfish Permit shall be granted only upon written application by an inhabitant of the City of Boston who shall have been such for not less than one (1) year next preceding the making of such application; provided, however, that, at such times as the City Council shall deem the number of "Commercial Use" Shellfish Permits so granted to be insufficient for the proper working of the shellfish areas in the City, a "Commercial Use" Shellfish Permit may be granted upon the written application by any inhabitant of the Commonwealth. No application for a "Family Use," or for a "Commercial Use" Shellfish Permit shall be denied except for good cause.

b. *Conditions of Permit.* Every "Family Use," and every "Commercial Use" Shellfish Permit, shall be upon the following conditions:

1. That the permit shall not be transferable;

2. That the permit shall expire in accordance with law and, prior to such expiration, may be terminated by revocation in accordance with law;

3. That the holder thereof shall at all times conform to all applicable statutes, ordinances, rules and regulations;

4. That the holder thereof shall not take shellfish from any area determined under Section 74 of Chapter 130 of the General Laws to be contaminated except in accordance with a permit granted under Section 75 of said Chapter 130; and

5. That the holder thereof shall at no time during the period in any year beginning May 15 and ending September 15 take any shellfish from a beach area.

c. *Revocation of Permit; Transferability.* Any "Family Use" or "Commercial Use" Shellfish Permit may, at any time, after due notice and hearing, be revoked by the City Council for any breach of condition or other good cause. No "Family Use" or "Commercial Use" Shellfish Permit shall be transferable. All such permits, unless sooner revoked, shall be valid for the calendar year in which issued.

d. *Area Permitted.* Any inhabitant of the Commonwealth holding a "Family Use" Shellfish Permit granted under paragraph a. of this section may take, for his own family use, shellfish from the following area in the City of Boston, to wit; the flatland coastal waters lying within the territorial limits of the City of Boston and easterly of a line drawn from Wind Mill Point in the Town of Hull to the southeasterly point of Deer Island and through Deer Island to Point Shirley, except the shores of Lovell's, Gallup's and George's Island; provided, however, that no shellfish shall be taken from said area of a size or at a season prohibited by law; and provided, further, that the amount taken for any family shall not exceed in any one week one bushel of any or all kinds of shellfish; and provided, further, that no shellfish shall be taken from so much of said area as shall from time to time be determined under Section 74 of Chapter 130 of the General Laws to be contaminated except in accordance with a permit granted under Section 75 of said Chapter 130.

e. *Commercial Use Prohibited Area.* Except as otherwise provided in paragraph d. of this section, no person shall take any kind of shellfish within the City of Boston unless he holds a "Commercial Use" Shellfish Permit granted under paragraph a. of this section. No shellfish shall be taken for commercial purposes from the area described in paragraph d. of this section.

f. *Permits Referred to Clerk of Committees.* Every application for a permit under this section shall be referred to the Clerk of Committees of the City Council who shall cause the same to be placed upon the agenda of the Council meeting next following with a report recommending that a permit be granted, unless the Clerk believes that the application contains a false statement, or that concerns of the public good require another action be taken, in either of which

event he shall make report to the Council together with his recommendations.

(CBC 1975 Ord. T14 § 273; Ord. 1979 c. 5, Ord. 1981 c. 16, s. 1)

16-4A PROHIBITED ACTS IN WETLANDS; PERMITS.

No person shall, in or near a wetland, perform any act which requires a permit under the provisions of Chapter 131, Section 40 of the General Laws and regulations issued thereunder except pursuant to a permit issued by the Conservation Commission, which permit shall be prominently displayed at the site of said activity. In addition to those persons authorized to enforce this subsection under Subsection 16-32.4 of this Chapter, this subsection shall be enforced by such persons as the Conservation Commission may designate.

(Ord. 1988 c. 15 § 2) Penalty, see subsection 16-32.6

16-5 FIREARMS.

16-5.1 Firing of Cannons and Guns.

No person shall fire or discharge a cannon, gun, fowling-piece, or firearm, within the limits of the City, except at a military exercise or review authorized by the military authority of the Commonwealth or by the City Council or Mayor of the City, or in the lawful defense of the person, family, or property of a citizen; provided, however, that this prohibition shall not apply to persons engaged in target practice on a range or other premises licensed to be used for such purpose by the City Council.

(CBC 1975 Ord. T14 § 274)

16-5A REGULATING THE SALE AND MARKETING OF REPLICA FIREARMS IN THE CITY OF BOSTON.

16-5A.1 Definitions.

As used herein, the following words shall have the following meanings:

a. *Commissioner* shall mean the Commissioner of the Boston Police Department or his designee.

b. *Department* shall mean the Boston Police Department.

c. *Market* shall mean to display for sale.

d. *Replica firearm* shall mean any toy, imitation, or facsimile pistol, revolver, shotgun, rifle, air rifle, B-B gun, pellet gun, machine gun or other similar simulated weapon which because of its color, size, shape or other characteristics, can reasonably be perceived to be a real firearm from which a shot or bullet can be fired and which, pursuant to Subsection 16-5A.4, has been determined to pose a threat to public safety.

e. *Sell* shall mean to exchange or deliver.

1. For money or its equivalent; or

2. As a promotion or an inducement to buy.
(Ord. 1988 c. 1 § 1 [A])

16-5A.2 Regulation.

Except as provided in Subsection 16-5A.3 herein, no person or entity shall sell or market any replica firearm in the City of Boston.
(Ord. 1988 c. 1 § 1 [B]) Penalty, see subsection 16-5A.4

16-5A.3 Exceptions.

Notwithstanding the foregoing, the sale of replica firearms shall be permitted if the sale of such replica firearms is solely for purposes of or for transportation in intrastate, interstate or foreign commerce.
(Ord. 1988 c. 1 § 1 [C])

16-5A.4 Enforcement.

a. The Commissioner shall identify those replica firearms which he deems to pose a threat to public safety and shall make a list thereof. Such list shall include, where available, the following information: the product name, the manufacturer and the model number. The Commissioner shall post the

list in the Department and shall make available copies thereof to the general public. The Commissioner shall update the list from time to time as he deems warranted. Any individual may provide information to the Commissioner regarding replica firearms to be added to the list.

b. Any person who observes the sale or marketing of a replica firearm which he believes to be a violation of this section may register a written or oral complaint with the Department. A Boston Police Officer, in response to each complaint, shall investigate the complaint forthwith in person and determine whether there is such a violation.

c. Any Boston Police Officer who observes the sale or marketing of a replica firearm which he believes to be a violation of this section shall investigate forthwith and determine whether there is such a violation.

d. If a Boston Police Officer determines that there is a violation of this section, he shall order the individual or entity to remove immediately from sale or marketing all the replica firearms found to be in violation. In addition, the Department shall impose the following penalties on the individual or entity violating the section:

1. A written citation or warning for the first violation;

2. A one hundred (\$100.00) dollar fine for the second violation; and

3. A two hundred (\$200.00) dollar fine for the second and any subsequent violations.

For purposes of penalties to be imposed under this section, if a Boston Police Officer determines that a sale or marketing of replica firearms has occurred, that determination shall constitute one violation, regardless of the number of replica firearms involved. A Boston Police Officer shall return, unannounced, to the site of the violation within the thirty (30) day period following the determination of a violation to ensure that the individual or entity has not resumed the sale or marketing of replica firearms.
(Ord. 1988 c. 1 § 1 [D])

16-5A.5 Appeal Procedure.

Any individual who is aggrieved by an action taken by a Boston Police Officer under this section may, within ten (10) days of such action, file an appeal, in writing, to the Commissioner. After notice to such individual, the Commissioner shall hold a hearing, after which he shall issue a decision in which he affirms, annuls or modifies an action taken by a Boston Police Officer, giving his reasons therefor. The Commissioner shall send the decision to the individual by first class mail within ten (10) days after the hearing. The decision shall be a final administrative decision. The individual shall have thirty (30) days from the date of the written decision to seek judicial review in the Suffolk County Superior Court.

(Ord. 1988 c. 1 § 1 [E])

16-5A.6 Effective Date.

This section shall take effect thirty (30) days after enactment.

(Ord. 1988 c. 1 § 2)

Editor's Note:

This section was enacted on April 15, 1988.

16-6 BONFIRES.**16-6.1 Permits Required.**

No person shall make a bonfire or other fire in the open air on any wharf or street within the City, except in accordance with a permit from the Fire Commissioner.

(CBC 1975 Ord. T14 § 275)

16-7 BRICK-KILNS.**16-7.1 Permits Required.**

No person shall erect, make, or fire, or cause to be erected, made or fired, within the City, a brick-kiln or lime-kiln, except in accordance with a permit from the Fire Commissioner.

(CBC 1975 Ord. T14 § 276)

16-8 INFLAMMABLE ARTICLES.**16-8.1 Defined; Age and Marking Requirements.**

No article fabricated from cellulose nitrate or other similarly inflammable substance shall be sold to any person under age sixteen (16) nor shall any such article be sold to any person over said age unless conspicuously marked with the words "HIGHLY INFLAMMABLE - KEEP AWAY FROM FLAME" in letters of boldface type not less than one eighth (1/8") of an inch in height.

(CBC 1975 Ord. T14 § 277) Penalty, see subsection 16-32.6

16-8.2 Sale of Certain Paints and Markers.

No person shall within the City sell, display, expose or keep for sale any aerosol spray paint can, nor, any marker containing a fluid which is not water-soluble and which has a point, brush, applicator or other writing surface in excess of one-half inch, unless at the point of display or sale there is posted a sign with letters not less than one and one-half (1-1/2") inches in height bearing the following words:- "SALE OF SPRAY PAINT AND BROAD INDELIBLE MARKERS TO PERSONS UNDER EIGHTEEN AND THE UNLAWFUL PURCHASE OR POSSESSION OF PAINTS AND SUCH MARKERS BY PERSONS UNDER EIGHTEEN IS PUNISHABLE BY A THREE HUNDRED DOLLAR FINE.", nor shall any person sell or deliver any aerosol spray paint, nor any marker containing a fluid which is not water-soluble and which has a point, brush, applicator or other writing surface in excess of one-half (1/2") inch to any person under eighteen (18) years of age or to any person of whatever age who refuses to submit for inspection if requested a driver's license, liquor purchase identification or other identification to establish the age of such person, nor shall any person being under the age of eighteen (18) purchase, conceal or remove from the premises such items, providing that nothing herein shall prevent the parent, guardian, employer, or teacher of such a minor person from delivering such items to a minor intending the same to be lawfully used.

(Ord. 1986 c. 10 § 2; Ord. 1994 c. 14 § 1)

16-8.3 Display of Certain Paints and Markers.

Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol spray paint or any marker containing a fluid which is not water-soluble and which has a point, brush, applicator or other writing surface in excess of one half ($\frac{1}{2}$) inch shall store or cause such aerosol spray paint or markers to be stored in an area continuously observable by employees of said retail commercial establishment during the regular course of business.

In the event a commercial retail establishment is unable to store such aerosol spray paint or markers in an area as provided in this section, as an alternative such aerosol spray paint or markers shall be stored in an area not accessible to the public in the regular course of business without employee assistance, pending the lawful sale or disposition of such aerosol spray paint or markers.
(Ord. 1994 c. 14 § 3)

16-8.4 Prohibiting Defacement of Property, and Possession of Certain Items.

No person shall, in or upon any public way, street, alley, park, playground, school, public building, public structure, wall, fence, post, sign, rock, monument, gravestone, tablet, public motor vehicle, or other public place or property within the City of Boston nor in or upon any private estate within the City of Boston, without the permission of the owner or person in charge thereof having first been obtained, nor in any way or manner otherwise prohibited paint, mark, scratch, etch, inscribe, injure, mar, destroy, tag, affix/apply a sticker to, or in any way deface such place or property. No person under eighteen (18) years of age, without such permission, shall carry or use (i) paint of any type or (ii) a non-water-soluble marker with a point, brush, or applicator with a width exceeding one-half ($\frac{1}{2}$) inch.

Each and every painting, mark, scratch, etching, inscription, injury, mar, destruction, tag, sticker, or defacement shall be considered a separate and distinct violation of this section. Each and every violation of this section shall be punished by a fine in the amount of three hundred (\$300.00) dollars.
(CBC 1975 Ord. T14 § 258; Ord. 1986 c. 10 § 1; Recodified by Ord. 1991 c. 5 § 10; Ord. 1994 c. 14 § 2; Ord. 2007 c. 2 § 1, 2)

16-8.5 Graffiti Removal.

a. *Purpose.* These sections require property owners to remove graffiti from their property within thirty (30) days of knowledge of the graffiti. The City of Boston currently provides a "Graffiti Busters" program wherein the City, at its expense, removes graffiti from public places and privately owned properties upon written request. In order to afford some property owners an opportunity to share the costs associated with the remediation of this form of vandalism, a property owner may substitute participation in the Graffiti Busters program for his/her removal of local graffiti in order to satisfy the requirements of this section. This section does not seek to punish victims of graffiti; instead, it seeks to remove the blight of tagging from the City and encourages victims of graffiti to use the City's Graffiti Busters program.

b. *Definitions.* Unless specifically indicated otherwise, these definitions shall apply and control in CBC 16-8.5.

City means the City of Boston.

Graffiti means the intentional painting, marking, scratching, coloring, tagging or other defacement of any public or private property without the prior written consent of the owner.

Graffiti Busters means an initiative of the Property Management Department of the City of Boston to remove graffiti.

Owner means any person who owns, manages, or controls any land, structure, fixture, or personal property (including, but not limited to, dumpsters).

Person means any individual, business, or entity.

c. *Removal of Graffiti.* Each and every owner shall remove graffiti from real and personal property within thirty (30) calendar days of the time the owner knows or reasonably should have known, either directly or through an owner's agent, of the presence of graffiti.

d. *Substitution and Exemption.* The City of Boston currently provides a Graffiti Busters program wherein the City, at its expense, removes graffiti from

public spaces and from privately owned properties upon request. An owner may satisfy the owner's requirements under this section through participation in Graffiti Busters, provided that the owner satisfies all of the requirements of the program.

An owner may be exempt from the requirement to remove graffiti under this section upon demonstration that (i) Graffiti Busters is no longer in operation and (ii) the owner lacks the financial capacity to remove the graffiti.

e. *Enforcement and Penalties.* The Inspectional Services Department and the Boston Police Department shall have the authority to enforce the provisions of CBC 16-8.5. Unless otherwise specified in these sections, a violation of CBC 16-8.5 may be subject to a fine of one hundred (\$100.00) dollars for the first offense and two hundred (\$200.00) dollars for any second and/or subsequent offense. The provisions of M.G.L. c. 40, s. 21D may be used to enforce this section.

f. *Applicability.* If any provision of this section imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of this section shall control.

g. *Regulatory Authority.* The Boston Police Department, the Property Management Department, and the Inspectional Services Department shall have the authority to promulgate rules and regulations necessary to implement and enforce this section.

h. *Severability.* If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

i. *Implementation.* The provisions of this section shall be effective immediately upon passage and all provisions shall be enforced immediately but no monetary fine shall be imposed pursuant hereto until thirty (30) days after passage. (Ord. 2005 c. 8)

16-9 OBSTRUCTION OF FIREMEN AND FIRE APPARATUS.

16-9.1 Interference Forbidden.

No person shall obstruct any member of the Fire Department in the discharge of his duties, or willfully interfere with any engine or other apparatus used by members of the Fire Department in the discharge of their duties.

(CBC 1975; Ord. T14 § 278) Penalty, see subsection 16-32.1

16-10 THE MARKET LIMITS.

16-10.1 Reserved.

(CBC Ord. 1975 Ord. T14 §§ 279; Repealed by Ord. 1991 c. 5 § 23; further repealed by Ord. 1992 c. 7 § 4)

16-10.2 Obstruction to Travel.

No person shall, within any market limits, so occupy or obstruct any sidewalk as not to leave a clear and direct passage for travellers thereon; or so place or stop any vehicle abreast of, or near to, any other vehicle as not to leave a clear and direct passage for vehicles.

(CBC 1975 Ord. T14 § 280; Ord. 1991 c. 5 § 23; Ord. 1992 c. 7 § 4)

16-10.3 Sunday Regulations.

No person shall, within any market limits, permit any box, cask, or other receptacle, or any vehicle, or any horse or other beast, to remain in a street or sidewalk on the Lord's day, except in the evening and in a place assigned by the Superintendent of Markets or his deputies.

(CBC 1975 Ord. T14 § 281; Ord. 1991 c. 5 § 23; Ord. 1992 c. 7 § 4)

16-10.4 Disorderly Conduct.

No person shall, within any market limits, play any game, lie down, sleep, or behave in a noisy,

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disorderly, or riotous manner, or scuffle, or throw any missile or thing whatsoever.

(CBC 1975 Ord. T14 § 282; Ord. 1991 c. 5 § 23; Ord. 1992 c. 7 § 4)

16-10.5 Compliance with Directions.

No person shall, within any market limits, neglect or refuse to obey or comply with any reasonable direction of the Superintendent of Markets or his deputies or any Police Officer.

(CBC 1975 Ord. T14 § 283; Ord. 1991 c. 5 § 23; Ord. 1992 c. 7 § 4)

16-11 FANEUIL-HALL MARKET LIMITS.

16-11.1 Place and Hours of Sale.

No person shall, within the Faneuil-Hall Market limits, sell or expose for sale goods, wares or merchandise in any place other than that assigned by the Superintendent of Markets or his deputies, and except during the hours for keeping open the market prescribed by the Superintendent of Markets.

(CBC 1975 Ord. T14 § 284)

16-12 USE OF STREETS.

16-12.1 Reserved

(CBC 1975 Ord. T14 § 285; Repealed by Ord. 1991 c. 5 § 26)

16-12.2 Loitering.

No person shall saunter or loiter in a street in such a manner as to obstruct or endanger travellers or in a manner likely to cause a breach of the peace or incite to riot; but nothing in this section shall be construed to curtail, abridge, or limit the right or opportunity of any person to exercise the right of peaceful persuasion guaranteed by Section 24 of Chapter 149 of the General Laws or to curtail, abridge, or limit the intentment of any statute of the Commonwealth of Massachusetts.

(CBC 1975 Ord. T14 § 286)

16-12.2A Display of Permits.

Every person occupying any property owned by, or in control of, the City, or any Officer, Board or Agency thereof, for any purpose requiring a license or permit issued by the City shall have any and all such valid licenses and permits posted and clearly visible at all times during such occupancy.

(Ord. 1986 c. 8 § 1; Ord. 1988 c. 15 § 8) Penalty, see subsection 16-32.6

16-12.3 Advertising.

Except in accordance with a permit from the Commissioner of Public Works no person shall, for the purpose of advertising goods, wares or merchandise for sale, while on foot in any street, carry and display any show card, placard or sign, nor shall any person distribute to persons in any street for the purpose of advertising goods, wares or merchandise for sale, handbills, cards, circulars or papers other than newspapers, nor shall any person having the control of any vehicle used principally for advertising permit such vehicle to operate in any street north and east of Massachusetts Avenue. The Commissioner of Public Works shall establish, with respect to such advertising matter, such uniform rules governing the size of show cards, placards, and signs as shall be reasonably necessary to prevent interference with public travel and for the other convenience and safety of the public and such rules governing the size of handbills, cards, circulars and papers other than newspapers which may be distributed in the street as shall be reasonably necessary to prevent littering or other hazard to public safety. Each permit issued hereunder shall contain a copy of the rules relating thereto and shall be limited by its terms to the authorization of conduct permitted thereby and otherwise legal.

No permit shall be required nor shall this ordinance operate to affect, interfere with or in any way abridge the right of persons on the street to carry or display noncommercial show cards, placards or signs or to distribute non-commercial handbills, cards, circulars or papers other than newspapers.

(CBC 1975 Ord. T14 § 287)

16-12.4 Merchandise to and from Second Story.

No person shall, except in accordance with a permit from the Commissioner of Public Works, raise into, or lower from, the second or any higher story of a building, over any portion of a street, any article of merchandise.

(CBC 1975 Ord. T14 § 288)

16-12.5 Sprinkling Ashes, Etc., on Streets; Removal of Manure.

No person shall, except in accordance with a permit from the Commissioner of Public Works, or as provided in subsection 16-2.16, sprinkle, scatter, put, or place any ashes, cinders, earth, dirt, gravel, sawdust, salt, or mixture of salt, in or upon a street, or without such permit remove any manure or dirt from any street.

(CBC 1975 Ord. T14 § 289) Penalty, see subsection 16-32.6

16-12.6 Reserved.

(CBC 1975 Ord. T14 § 290; Repealed by Ord. 1991 c. 5 § 27) Penalty, see subsection 16-32.6

16-12.7 Reserved.

(CBC 1975 Ord. T14 § 291; Ord. 1979 c. 34; Recodified by Ord. 1991 c. 5 § 24) Penalty, see subsection 16-32.6

16-12.8 Littering.

No person shall, in or upon any way, street, alley, or other public place within the City, nor in or upon any estate within the City, whether such person is in or upon a vehicle or on foot, deposit, drop or throw, and suffer to remain there, any filth, rubbish, litter so-called, or any other substance, without the permission of the owner or person in charge thereof, nor in any way or manner otherwise prohibited.

(CBC 1975 Ord. T14 § 292; Ord. 1986 c. 1 § 1) Penalty, see subsection 16-32.1, 16-32.6

16-12.8A Implementation and Maintenance of a System to Retain all Shopping Carts within a Business Establishment.**16-12.8A.1 Purpose.**

These sections require business establishments utilizing shopping carts or similar devices and having more than twenty (20) shopping carts on-site to install and maintain a system to retain the shopping carts within the property boundaries of the business establishment. The Commissioner of the Inspectional Services Department, in accordance with the powers and duties delineated in CBC 9-9.1, is authorized to implement and enforce these sections, and the Commissioner of the Public Works Department, in accordance with the powers and duties delineated in CBC 11-6.1, is authorized to implement and enforce these sections.

(Ord. 2003 c. 24)

16-12.8A.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in these sections.

a. *Business establishment* includes but is not limited to a grocery store, supermarket, drugstore, pharmacy, dry goods store, department store, discount store, variety store, or other retail establishment which supplies twenty (20) or more Shopping Carts for the use of its customers.

b. *Commissioner of Inspectional Services* means the Commissioner of the Inspectional Services Department or his/her designee or agent.

c. *Commissioner of Public Works* means the Commissioner of the Public Works Department or his/her designee or agent.

d. *ISD* means the Inspectional Services Department or its successor.

e. *Owner* means the owner of a business establishment if it is owner-operated or the manager of a business establishment if it is not owner-operated.

f. *Parking lot* means any parcel of land owned, leased, or otherwise under the direction and control of the owner and used for parking motor vehicles related

to the daily operations of the business establishment and shall include the areas of ingress and egress.

g. *Permanent identity tag* means a tag, label, plate, or other form of identification that is affixed to a shopping cart and is designed to be removed/removable only by the business establishment. The permanent identity tag shall state the name of the business establishment, the address of the business establishment, and the telephone number of the business establishment. The name, address, and telephone number on the permanent identity tag shall be of the neighborhood business establishment rather than a state, regional, or national headquarters, except that business establishments using a total of more than three hundred fifty (350) shopping carts at more than two (2) locations within the City of Boston may place a central telephone number on the permanent identity tag as long as that telephone number is within the 617 area code.

h. *PWD* means the Public Works Department or its successor.

i. *Shopping cart* or *cart* includes but is not limited to that type of mobile vehicle used for transportation and portage by human propulsion of goods or merchandise in and about markets, stores, shops, shopping centers, malls, and other business establishments.
(Ord. 2003 c. 24)

16-12.8A.3 On-Site Retention.

a. Each and every shopping cart utilized by a business establishment shall have affixed thereto a permanent identity tag. A first violation of this section shall be subject to a warning, and each subsequent violation of this section shall be subject to a fine of twenty dollars and no cents (\$20.00). Each cart not in compliance with this subsection shall be considered a separate violation.

b. Each and every business establishments shall implement and maintain a system to retain all shopping carts within the property boundaries of the business establishment including its parking lot. The business establishment shall provide signage in a conspicuous location on the premises which clearly notifies shopping cart users of the specific retention system in place and how the retention system operates.

c. Each method included in this subsection shall be considered to be an example of an on-site retention method complying with these sections. If the business establishment has a method for retention that is not delineated as an example herein, then an owner may submit a plan to the Commissioner of Inspectional Services that satisfies the intent of these sections to retain shopping carts on the premises of the business establishment and/or its parking lot or to ensure the immediate retrieval of shopping carts outside of the business establishment and/or its parking lot; no plan submitted by an owner to the Commissioner of Inspectional Services shall be valid until approved in writing by the Commissioner of Inspectional Services. Examples of methods and/or plans are as follows:

1. A physical barrier, such as bollards, restricting shopping carts to a portion of the exterior of the business establishment, but physical barriers shall not interfere with fire lanes, handicap access, or similar building features;

2. A protruding vertical arm, or other similar or similarly-functioning device, attached to the cart which prevents the cart from being removed from the interior of the business establishment;

3. A system, which may be mechanical in nature, requiring the cart user to remit collateral, including but not limited to a returnable monetary deposit to use a shopping cart; the collateral shall be reasonable in scope and shall not unreasonably deter the use of the cart but instead encourages the user's return of the cart; the collateral shall be returned to the user upon the user's return of the cart;

4. A wheel-locking mechanism installed on the cart that is commonly used in conjunction with an electronic barrier along the perimeter of a business establishment and which mechanism is activated upon the cart's approach or passing through the electronic barrier;

5. An attendant or attendants whose sole responsibility is to manage and/or return the business establishment's shopping carts from the exterior premises of the business establishment and areas immediately adjacent thereto to the interior premises of the business establishment or another exterior area of the business establishment dedicated to the containment of shopping carts.

6. Other similar methods or plans submitted by an owner for the approval of the Commissioner of Inspectional Services which would satisfy the intent of these sections to retain shopping carts on the premises of the business establishment and/or its parking lot or to ensure the immediate retrieval of shopping carts outside of the business establishment and/or its parking lot.

d. No business establishment shall allow shopping carts to congregate or "stack up" in such a manner as to impede ingress to or egress from the business establishment or any public or private way adjacent to the business establishment.

e. Prior to the close of each business day, every business establishment shall collect and secure its shopping carts on its premises, including its parking lot. This action shall be commenced no sooner than fifteen (15) minutes prior to the close of each business day.
(Ord. 2003 c. 24)

16-12.8A.4 Removal of Shopping Carts.

a. Any unattended shopping cart found outside the perimeter of a business establishment or its parking lot may be removed and impounded by the Department of Public Works, the Inspectional Services Department, or an agent thereof. The enforcement personnel removing the cart shall make a written report that identifies himself/herself as well as the date, time, and location of the cart at the time of the removal; this report may take the form of a tag attached to the cart; a copy of the report shall be immediately forwarded to the Commissioner of Inspectional Services.

b. Within a reasonable time but not more than three (3) business days after removal, the Commissioner of Inspectional Services shall notify the owner of the removed cart using the information provided on the permanent identity tag attached pursuant to CBC 16-12.8A.3(a). If the cart does not have a permanent identity tag then the Commissioner of Inspectional Services may attempt to notify the owner of the removed cart if the identity of the owner is known or reasonably discernible. Any notification of removed and impounded shopping carts shall be made in writing and shall include the date of removal, the location of removal, and the process for the owner's retrieval of the cart.

c. Any cart that does not have the permanent identity tag attached pursuant to CBC 16-12.8A.3(a) and which is removed pursuant to these sections is deemed to be abandoned property and the Commissioner of Inspectional Services may sell any such cart at public auction and the proceeds shall inure to the City of Boston, or destroy or otherwise dispose of any such cart.

d. No person shall remove a shopping cart from a business establishment without the express written authorization of the business establishment. Any person that removes a shopping cart from a business establishment without the express written authorization of the business establishment, although subject to the criminal penalties in M.G.L. c. 266, s. 30A, shall also be subject to a civil fine in the amount of fifty dollars and no cents (\$50.00). The Boston Police Department shall have non-exclusive authority to enforce this subsection.
(Ord. 2003 c. 24)

16-12.8A.5 Retrieval of Shopping Carts.

a. An owner or an owner's agent may retrieve a shopping cart removed pursuant to CBC 16-12.8A.4 by appearing during normal business hours at the location in the notice required under CBC 16-12.8A.4 and by paying (i) a fee for the removal of the carts in the amount of twenty dollars and no cents (\$20.00) for each of the first three (3) carts and forty dollars and no cents (\$40.00) for each additional cart thereafter and (ii) a fee for the storage of the cart(s) in the amount of five dollars and no cents (\$5.00) per cart per day.

b. The obligation of the Commissioner of Inspectional Services to release a shopping cart continues only as follows:

1. If no hearing in accordance with CBC 16-12.8A.7 has been timely and properly requested and the cart has not been retrieved then the obligation of the Commissioner of Inspectional Services extends only thirty (30) calendar days after notice of removal has been mailed;

2. If a hearing in accordance with CBC 16-12.8A.7 has been timely and properly requested then the obligation of the Commissioner of Inspectional Services extends only fifteen (15) calendar days after a notice of decision of the

Commissioner of Inspectional Services has been made in accordance with CBC 16-12.8A.7.

c. Any shopping cart that has not been retrieved by an owner within the time periods contained in this section shall be deemed to be permanently abandoned, and the Commissioner of Inspectional Services may, in said Commissioner's sole discretion, (i) continue to release such carts to the owner in accordance with CBC 16-12.8A.5(a), (ii) sell such carts at public auction and the proceeds shall inure to the City of Boston, or (iii) destroy or otherwise dispose of such carts.

d. An owner that does not retrieve a cart and that has not petitioned for a hearing may be subject to additional fines and/or fees which may include a fee to dispose of the cart of forty dollars and no cents (\$40.00).

(Ord. 2003 c. 24)

16-12.8A.6 Fines.

Unless otherwise specified in these sections, a violation of CBC 16-12.8A shall be subject to the issuance of a warning for a first offense, a fine of twenty-five dollars and no cents (\$25.00) for a second offense, and a fine of fifty dollars and no cents (\$50.00) for any third or subsequent offense. Any fines and/or fees that remain unpaid by an owner for more than twelve (12) months may become liens against the real estate of the business establishment. The provisions of M.G.L. c. 40, s. 21D may be used to enforce these sections.

(Ord. 2003 c. 24)

16-12.8A.7 Appeal.

a. An owner who has incurred a shopping cart-related warning and/or fee under these sections may obtain a hearing regarding the propriety of the warning and/or fee by making a written petition to the Commissioner of Inspectional Services for a hearing within fifteen (15) calendar days of receipt of the notice of removal pursuant to CBC 16-12.8A.4(b). The Commissioner of Inspectional Services shall provide written notice to the owner of the date, time, and location of the hearing, and the hearing shall be held within thirty (30) calendar days from the date of the hearing request.

b. The Commissioner of Inspectional Services shall act as the Hearing Officer and the decision resulting therefrom shall be final and subject only to judicial review under M.G.L. c. 30A, s. 14.

c. The Commissioner of Inspectional Services shall notify the owner of the decision in writing within thirty (30) calendar days of the hearing.

d. Proceedings for review of the decision of the Commissioner of Inspectional Services may be instituted in any court of competent jurisdiction within the Commonwealth of Massachusetts within thirty (30) calendar days of the date of the notice of decision of said Commissioner. The commencement of an action shall not operate as a stay of enforcement of said Commissioner's decision, but the Commissioner of Inspectional Services, at his/her discretion, may stay enforcement; the reviewing court may order a stay upon such terms as it considers proper as prescribed by M.G.L. c. 30A, s. 14.

(Ord. 2003 c. 24)

16-12.8A.8 Permits.

The Commissioner of Inspectional Services and the Commissioner of Public Works may withhold the issuance of any permit if the applicant therefor is an owner, or is acting on behalf of an owner, of a business establishment that has an uncorrected violation and/or amounts due for an unpaid fine or an unpaid fee.

(Ord. 2003 c. 24)

16-12.8A.9 Stolen Property.

In their efforts to enforce the provisions of these sections, nothing in these sections shall be construed to prohibit, encumber, or impede PWD or ISD from reporting a discovery of stolen property to the Boston Police Department.

(Ord. 2003 c. 24)

16-12.8A.10 Regulatory Authority.

The Commissioner of Inspectional Services and/or the Commissioner of Public Works shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

(Ord. 2003 c. 24)

16-12.8A.11 Effective Date.

The provisions of these sections shall be effective immediately, but enforcement of fines, fees, and/or other penalties shall not be authorized until July 31, 2004.

(Ord. 2003 c. 24)

16-12.8A.12 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2003 c. 24)

16-12.9 Litter from Vehicles.

No driver of any vehicle upon any public way, public alley or other public place under the charge of the Commissioner of Public Works shall permit to drop or fall from such vehicle onto such way, alley or place or any roadway or walk thereof, and suffer to remain there, any substance except in the maintenance or repair of such way, alley or place.

(CBC 1975 Ord. T14 § 293) Penalty, see subsection 16-32.1, 16-32.6

16-12.10 Reserved.

(Ord. 1975 c. 2; CBC 1975 Ord. T14 § 294; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28) Penalty, see subsection 16-32.1, 16-32.6

16-12.11 Reserved.

(CBC 1975 Ord. T14 § 295; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28) Penalty, see subsection 16-32.1, 16-32.6

16-12.12 Reserved.

(CBC 1975 Ord. T14 § 296; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28) Penalty, see subsection 16-32.1, 16-32.6

16-12.13 Reserved.

(CBC 1975 Ord. T14 § 297; Ord. 1985 c. 7; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28) Penalty, see subsection 16-32.1, 16-23.6

16-12.14 Use of Propelled Novelty Substances Prohibited.

No person shall in or about any part of the streets, parks, public grounds, public buildings, or other public places discharge without permission of every person who would be struck, or the owners of property which would be struck, as the case may be, as result of such discharge any toy, amusement or novelty product fitted to propel, by compressed air or gas, any substance primarily intended for amusement or decoration, in the nature of "liquid string," so-called.

(Ord. 1994 c. 12 § 2) Penalty, see subsection 16-32.6

16-12.15 Throwing or Shooting on Streets.

No person shall, in any street, play ball, throw stones, snow balls, or other missiles, or shoot with or use a bow and arrow or sling.

(CBC 1975 Ord. T14 § 299) Penalty, see subsection 16-23.6

16-12.16 Snow, Slush, and Ice on Sidewalks and Curb Ramps.

a. *Requirements for Snow and/or Slush.* No owner, manager, or tenant, if expressly required to remove snow under a written lease and rental agreement, of a building, estate, or land abutting on a sidewalk shall place or suffer to remain in place for more than three (3) hours after snow fall has ended between sunrise and sunset any slush or any loose, granular, or packed snow upon such sidewalk. Removal of any slush or snow should be conducted along the full paved width of such sidewalk and in a manner that ensures the orderly flow and safety of pedestrian traffic upon such sidewalks. Removal of any slush or snow shall be conducted in a manner that clears a path of a minimum of forty-two (42) inches wide. Each day that a violation exists shall be considered a separate and distinct violation.

b. *Requirements for Ice.* No owner, manager, or tenant, if expressly required to remove ice under a written lease or rental agreement, of a building, estate, or land abutting on a sidewalk shall place or suffer to remain in place for more than three (3) hours after snow fall has ended between sunrise and sunset any ice upon such sidewalk. Removal of any ice shall be in a manner consistent with the requirements of subsection a., except that any such owner, manager,

or tenant shall be deemed to be in compliance with this paragraph if such ice is made level and completely covered with sand, sawdust, or other similar material. Each day that a violation exists shall be considered a separate and distinct violation.

c. *Requirements for Snow and/or Slush on Curb Ramps.* No owner, manager, or tenant, if expressly required to remove snow and/or slush under

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a written lease or rental agreement, of a building, estate, or land abutting on one (1) or more curb ramps shall place or suffer to remain in place for more than three (3) hours after snow fall has ended between sunrise and sunset any slush or any loose, granular, or packed snow upon such curb ramp(s). Removal of any slush or snow should be conducted along the full paved width of such curb ramp(s) and in a manner that ensures the orderly flow and safety of pedestrian traffic upon such curb ramp(s). Removal of any slush or snow shall be conducted in a manner that clears a path of a minimum of forty-two (42) inches wide from the sidewalk to the street. Each day that a violation exists shall be considered a separate and distinct violation.

d. *Requirements for Ice on Curb Ramps.* No owner, manager, or tenant, if expressly required to remove ice under a written lease or rental agreement, of a building, estate, or land abutting on one (1) or more curb ramps shall place or suffer to remain in place for more than three (3) hours after snow fall has ended between sunrise and sunset any ice upon such curb ramp(s). Removal of any ice shall be in a manner consistent with the requirements of subsection a., except that any such owner, manager, or tenant shall be deemed to be in compliance with this paragraph if such ice is made level and completely covered with sand, sawdust, or other similar material. Each day that a violation exists shall be considered a separate and distinct violation.

e. No person shall remove slush, snow, or ice from privately-owned real property and place it upon any sidewalk, curb ramp or street.

f. *Enforcement/Penalties.*

1. Any violation of subsection a. or subsection b. occurring at a sidewalk abutting land zoned solely for residential use and that has sixteen (16) or fewer residential units shall result in a fine of one hundred (\$100.00) dollars for each such violation.

2. Any violation of subsection a. or subsection b. occurring at a sidewalk abutting land zoned solely for residential use and that has more than sixteen (16) residential units shall result in a fine of one hundred fifty (\$150.00) dollars for each such violation.

3. Any violation of subsection a. or subsection b. occurring at a sidewalk abutting land zoned for any use other than solely residential shall result in a fine of two hundred fifty (\$250.00) dollars for each such violation.

4. Any violation of subsection c. or subsection d. occurring at one (1) or more curb ramps abutting land zoned for any use other than solely residential shall result in a fine of two hundred fifty (\$250.00) dollars for each such violation.

5. Any violation of subsection e. occurring at a sidewalk, curb ramp or street abutting land zoned solely for residential use and that has sixteen (16) or fewer residential units shall result in a fine of one hundred (\$100.00) dollars for a cubic yard or less and one hundred fifty (\$150.00) dollars for more than a cubic yard.

6. Any violation of subsection e. occurring at a sidewalk, curb ramp or street abutting land zoned solely residential use and that has more than sixteen (16) residential units shall result in a fine of one hundred fifty (\$150.00) dollars for a cubic yard or less and two hundred (\$200.00) for more than a cubic yard.

7. Any violation of subsection e. occurring at a sidewalk or curb ramp abutting land zoned for any use other than solely residential shall result in a fine of three hundred (\$300.00) dollars.
(CBC 1975 Ord. T14 § 300; Ord. 1991 c. 5 § 30; Ord. 1994 c. 2 § 1; Ord. 2007 c.7 § 1; Ord. 2011 c. 13) Penalty, see subsection 16-32.1, 16-32.6

16-12.17 Reserved.

(CBC 1975 Ord. T14 § 301; Ord. 1985 c. 9 § 1; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28) Penalty, see subsection 16-32.1, 16-32.6

16-12.18 Reserved.

(CBC 1975 Ord. T14 § 302; Ord. 1985 c. 9 § 2; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28) Penalty, see subsection 16-32.1, 16-32.6

16-12.19 Cutting of Grass.

No person in control of any estate abutting on a sidewalk shall knowingly suffer to remain uncut any overgrowth of grass planted therein by the City. (CBC 1975 Ord. T14 § 303) Penalty, see subsection 16-32.1, 16-32.6

16-12.20 Reserved.

(CBC 1975 Ord. T14 § 304; Repealed by Ord. 1991 c. 5 § 31) Penalty, see subsection 16-32.6

16-12.21 Reserved.

(CBC 1975 Ord. T14 § 305; Repealed by Ord. 1991 c. 5 § 32) Penalty, see subsection 16-32.6

16-12.22 Reserved.

(CBC 1975 Ord. T14 § 306; Repealed by Ord. 1991 c. 5 § 33) Penalty, see subsection 16-32.6

16-12.23 Reserved.

(CBC 1975 Ord. T14 § 307; Repealed by Ord. 1991 c. 5 § 34) Penalty, see subsection 16-32.6

16-12.24 Reserved.

(CBC 1975 Ord. T14 § 308; Repealed by Ord. 2005 c. 1)

16-12.25 Unlawful Games.

No person shall expose in any street any table or device of any kind intended for playing a game of hazard or chance; and no person shall play any such game or any other unlawful game in any street. (CBC 1975 Ord. T14 § 309)

16-12.26 Protection of Trees, Lamp-Post and Hydrants.

No person shall climb, or tie a horse or other animal to, a tree, lamp-post, or hydrant in any street; or attach a wire to a tree belonging to the City or in a street, except by bending wire around a part of the tree over blocks painted substantially the color of the tree and so placed as to protect the tree from injury. (CBC 1975 Ord. T14 § 310)

16-12.27 Abusive Language; Soliciting in Streets.

No person shall, in any street or other public place, accost or address another person with profane or obscene language; nor shall any person in a street solicit another person to engage in an unlawful sexual act. (CBC 1975 Ord. T14 § 311) Penalty, see subsection 16-32.1

16-12.28 Drinking of Alcoholic Beverages in Public.

No person shall drink any alcoholic beverage as defined in Chapter 138, Section 1 of the General Laws of the State, or possess an open container, full or partially full, of any alcoholic beverages, while on, in or upon any public way, upon any way to which the public has right of access, in any place to which members of the public have access as invitees or licensees, in any park or playground, conservation area or recreation area, on private land or place without consent of the owner or person in control thereof.

(CBC 1975 Ord. T14 § 312; Ord. 1982 c. 21 s 1; Ord. 1982 c. 23 s 1) Penalty, see subsection 16-32.2

16-12.29 Procurement of Alcoholic Beverages for Underage Individuals.

No person, while in or on any public way, public alley, sidewalk, park, or playground area or vehicle parking or apron pedestrian area serving mercantile establishments within the City shall agree to procure for or deliver to an individual who has not reached age twenty-one (21) any alcoholic beverage, sealed or open. The burden of ascertaining that the recipient meets age eligibility shall rest upon the person delivering such container of alcoholic beverage. Violators shall be subject to penalty as established by General Laws, Chapter 138, Section 34 imposing a fine up to two hundred (\$200.00) dollars or up to six (6) months imprisonment or both, upon conviction. (CBC 1975 Ord. T14 § 312A; Ord. 1982 c. 21 s 2; Ord. 1993 c. 2) Penalty, see subsection 16-32.1

16-12.30 The Use of Intimidation to Obtain Alcoholic Beverages.

No individual or individuals, while in or on any public way, public alley, sidewalk, park or

playground area or vehicle parking or apron pedestrian area serving any mercantile establishment within the City and who are under age twenty-one (21) shall persuade, intimidate or otherwise cause any other person to purchase or obtain from a licensed establishment alcoholic beverages intended for consumption by such individual or other individuals who are below the legal drinking age in this Commonwealth. Violators, including minors, shall be subject to penalty as established by General Laws, Chapter 138, Section 34A which imposes a fine of three hundred (\$300.00) dollars for each conviction. (CBC 1975 Ord. T14 § 312B; Ord. 1982 c. 21 s 3; Ord. 1993 c. 2)

16-12.30A The Use of False Identification to Obtain Alcoholic Beverages.

a. *Prohibition.* No person shall use transferred, altered, defaced, or forged identification in order to obtain alcoholic beverages.

b. *Penalty.* In addition to any penalties delineated in Massachusetts General Laws Chapter 130, Section 34B, any person violating the prohibition of this section may be subject to a fine of two hundred fifty (\$250.00) dollars.

c. *Enforcement and Regulatory Authority.* The Boston Police Department shall have the authority to enforce these provisions and to promulgate rules and regulations necessary to implement and enforce these provisions.

d. *Severability.* If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

e. *Implementation.* These provisions shall be effective immediately upon passage. (Ord. 2005 c. 2)

16-12.31 Posting of "Warning" Notice.

In addition to requirements of Chapter 138, Section 34A, the "warning" poster provided by the State Alcoholic Beverages Control Commission shall in Boston be prominently displayed at the principal entrance of every licensed establishment which sells alcoholic beverages for off-premises consumption.

Each police area commander shall ascertain through inspection at least twice annually that every such establishment located in his or her jurisdiction has adequately posted such notice at the principal entrance.

(CBC 1975 Ord. T14 § 312C; Ord. 1982 c. 21 s. 4)

16-12.31A Concerning Parental Responsibility for Public Consumption of Alcoholic Beverages by Minors.

A parent, guardian, or legal custodian of an unemancipated minor child shall be liable for any willful act committed by said child in violation of the provisions of subsections 16-12.28, 16-12.29, or 16-12.30, supra. This provision shall be enforced by all Police Officers and shall be punishable by a fine of fifty (\$50.00) dollars. This section shall be enforced under non-criminal disposition of violations in the manner and to the extent provided in G.L. c. 40, s. 21D.

(Ord. 1986 c. 16 § 1) **16-12.32 Vaults Under Sidewalks.**

No person shall make any permanent excavation under the surface of a street, the inner face of the wall of which extends further under the street than to a line eighteen (18") inches inside the line of the outer edge of the curbstone or sidewalk.

(CBC 1975 Ord. T14 § 313)

16-12.33 Gratings.

No person shall place or maintain in a street any grating which extends more than eighteen (18") inches into the street, or the spaces between the bars of which are more than one (1") inch in width.

(CBC 1975 Ord. T14 § 314)

16-12.34 Openings in Street.

No person shall make a coal-hole or other opening in a street, except in accordance with a permit from the Commissioner of Public Works.

(CBC 1975 Ord. T14 § 315)

16-12.35 Steps.

No person shall maintain an entrance to his estate by steps descending immediately from or near the line of a public street, unless the same is securely guarded. (CBC 1975 Ord. T14 § 316)

16-12.36 Street Openings.

No person shall open or occupy any portion of a street, except in accordance with a permit from the Commissioner of Public Works. Such permit shall be exhibited to a Police Officer upon his request. (CBC 1975 Ord. T14 § 317)

16-12.37 Prohibiting Operation of Skateboards, Roller Blades, Roller Skates and Stunt-Type Bicycles on Certain Public Property.

a. Operation of Skateboards, Roller Blades, Roller Skates and Stunt-type Bicycles on Public Property Prohibited.

1. Unless otherwise permitted by City rule or regulation, it shall be unlawful for any person to ride or operate roller blades, roller skates, a skateboard, or stunt-type bicycle upon public property in the City of Boston. Public property includes, but is not limited to, stairs, fountain areas, plazas, or any area under the care, custody, and control of the City but, for the purpose of this subsection, shall not include streets or sidewalks.

2. The Transportation Commission may by regulation declare it unlawful for any person to ride or operate roller blades, roller skates, a skateboard or stunt-type bicycle upon specific streets or sidewalks within the City.

b. Penalties. An individual who violates paragraph a. of this subsection shall be subject to a fine of one hundred (\$100.00) dollars for a first offense and two hundred (\$200.00) dollars for any subsequent offense, but a court may authorize community service in lieu of all or part of this fine.

c. Enforcement. The provisions of G.L. c. 40, s. 21D may be utilized to enforce this ordinance.

d. Severability. The provisions of this section shall be severable and if any section, part or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the decision of the court shall not affect or impair any remaining section, part or portion thereof.

(Ord. 1997 c. 8 §§ 1-3; Ord. 2003 c. 1)

16-12.38 Gas-Powered Vehicles: Scooters, Powerboards, and Mini-Motorbikes.

a. Definition. This section refers to scooters, powerboards, and mini-motorbikes that have handlebars, that have two (2) wheels, that are designed to be stood upon or sat upon by the operator, and that are gas-powered by an engine or motor capable of propelling the vehicle with or without human thrust.

b. Prohibition from Sidewalks. No person may use, ride, or otherwise operate a gas-powered scooter, powerboard, or mini-motorbike on a sidewalk of the City of Boston.

c. Prohibition from Streets. No person may use, ride, or otherwise operate a gas-powered scooter, powerboard, or mini-motorbike on a public way, private way, street, or on the grounds of any public school in the City of Boston unless that person is sixteen (16) years of age or older and is carrying a valid driver's/operator's license.

d. Penalties. Any person violating the provisions of this section shall be subject to a fine of twenty-five dollars and no cents (\$25.00) for a first offense and fifty dollars and no cents (\$50.00) for a second or any subsequent offense, but a court of competent jurisdiction may substitute community service for any fine monies.

e. Exceptions. Nothing in these sections shall prevent the legal use of (i) any mechanical or motorized device designed and used to assist a person with a disability affecting ambulation, (ii) a moped that has been registered with the Massachusetts Registry of Motor Vehicles, and (iii) a motorized bicycle that has been registered with the Massachusetts Registry of Motor Vehicles.

f. Enforcement. The Boston Transportation Department and the Boston Police Department shall have the authority to enforce this section. The provisions of Massachusetts General Laws c. 40, s. 21D may be used to enforce these sections. The Boston Police Department shall have the authority to impound any vehicle in violation of these sections.

g. Regulatory Authority. The Commissioner of the Boston Transportation Department and the

Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

h. *Severability.* If any provision of these sections are held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

i. *Implementation.* The provisions of this section shall be effective immediately after passage. (Ord. 2004 c. 6)

16-12.38A ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

16-12.38A.1 Definition of Electric Personal Assistive Mobility Device or EPAMD.

An *electrical personal assistive mobility device (EPAMD)* shall mean a self-balancing device with two (2) wheels not in tandem, designed to transport only one (1) person by an electric propulsion system having a maximum speed on a paved level surface of less than twenty (20) miles per hour. For purposes of this section 16-12.38A, EPAMDs shall include but shall not be limited to the Segway® PT. For purposes of this section 16-12.38A, electric or motorized wheelchairs and powerchairs shall not be considered EPAMDs.

(Ord. 2011 c. 8)

16-12.38A.2 Prohibition of EPAMDs.

The use of EPAMDs are hereby prohibited, based upon the interest of safety, on all public property in the City of Boston except as specifically authorized by the provisions of this chapter. Public property includes but is not limited to all public ways, sidewalks, parks, plazas, bicycle paths and shared use paths owned by and/or under the care, custody and control of the City of Boston.

(Ord. 2011 c.8)

16-12.38A.3 Definition of Tour Operator.

A *tour operator* is any person, corporation, or other entity engaged in the business of providing tours

to customers using EPAMDs and/or engaged in the business of renting EPAMDs to customers in the City of Boston.

(Ord. 2011 c. 8)

16-12.38A.4 Limited Use of EPAMDs for Tour Operations.

In the City of Boston the use of EPAMDs in tour operations shall be permitted subject to licensure by the Police Commissioner for the City of Boston who shall have exclusive authority to license and promulgate regulations for the use of EPAMDs in such tour operations. Subject to such licensure and regulations, tour operators, their employees, customers and users may operate EPAMDs only on public streets in the City of Boston on routes approved by the Boston Transportation Department with a license issued by the Boston Police Department's Hackney Division to use and/or operate EPAMDs under the minimum conditions and requirements as set forth in this section. The Police Commissioner may establish additional conditions and requirements by rule or regulation consistent with his authority as Police Commissioner of the City of Boston. Such licenses approved by the Police Commissioner shall be granted for a term not exceeding one (1) year but whenever granted they shall expire annually on the first day of March; such licenses may be renewed annually by the Police Commissioner and may at any time be revoked or suspended for cause by said Commissioner. The Police Commissioner shall determine appropriate fees for administering such licenses. Such license is nontransferable and authorizes only the named licensee and/or its customers to use and/or operate EPAMDs in accordance with the provisions of this section. Such license shall be prominently displayed on the front of any EPAMD used and/or operated by a licensee within the City of Boston.

Such minimum conditions and requirements shall be as follows:

(a) The proposed tour route and months, days and hours of operation must be pre-approved in writing by the Boston Transportation Department. Thereafter, there shall be no deviations from the approved tour route without prior written approval from the Boston Transportation Department.

(b) The tour operator shall provide an approved site for education and instruction on the operation and

use of EPAMDs by its employees and customers. For purposes of this section, customers shall include all tour patrons and users, whether or not consideration is paid for such use.

(c) All tour users or customers must be shown a safety video and provided with "hands on" EPAMD training by an experienced operator in a controlled area prior to such user physically operating an EPAMD on any public property in the City.

(d) Tour operators shall provide to their customers and/or users of EPAMDs a fact sheet issued by the City of Boston summarizing the provisions of this section 16-12.38A and any applicable regulations authorized herein regulating licensed tour operators and EPAMD users. Tour operators shall ensure that every customer and/or user of an EPAMD on its tour shall acknowledge, sign and date the fact sheet prior to his or her use of an EPAMD. Tour operators shall retain such record of acknowledgement in accordance with the rules or regulations authorized to be promulgated hereunder.

(e) The maximum number of EPAMD users that can be included in any single tour is six (6), and one (1) tour leader.

(f) Tour leaders/operators must be able to communicate with each other through the use of private communication devices (two-way radios, cellular phones or similar devices) and have available the use of rearview mirrors or other mirror device approved by the Boston Police Department.

(g) No rider under fourteen (14) years of age and/or one hundred (100) pounds in weight, and/or as limited by the applicant's insurance company requirements, and/or pursuant to the EPAMD manufacturer's specifications, shall be allowed on any tour.

(h) Tour leaders/operators must be at least eighteen (18) years of age and must be experienced in the use and operation of EPAMDs to give tours. Tour leaders or operators shall wear safety reflector vests, or other obviously visible clothing as may be approved by the Boston Police Department.

(i) No EPAMD shall be used or operated in excess of a maximum speed of eight (8) miles per hour.

(j) Tours shall use only the public streets or roads of the City of Boston.

(k) No tour will be conducted or operated after dusk.

(l) Tours shall not enter any private property without prior permission from the owner.

(m) Every EPAMD shall be equipped with a sounding device and all customers or users shall be trained in the use of such sounding device.

(n) An EPAMD user shall yield the right-of-way to pedestrians and shall give an audible signal with a sounding device before overtaking and passing a pedestrian.

(o) All users or customers shall wear helmets during training and at all other times during the tour or at any time while on or operating an EPAMD.

(p) Users or customers shall not be permitted to operate an EPAMD while under the apparent influence of alcohol or drugs, including prescription drugs that impair the user's ability to operate machinery, or in the event that the tour operator or employees have actual knowledge of the fact that such user or customer is under the influence of alcohol or drugs, including prescription drugs that impair the user's ability to operate machinery.

(q) All of the above requirements and conditions shall be explained and specifically described by the tour operator or employees to each user or customer prior to the use of an EPAMD by such user or customer.

(Ord. 2011 c.8)

16-12.38A.5 Limited Use of EPAMDs for Disabled Persons for Mobility Purposes.

An EPAMD may be used and operated on public property in the City of Boston, provided such EPAMD is used and/or operated by a person disabled for mobility purposes in accordance with all the requirements established in this section.

(a) *Inquiry into use of EPAMDs by persons who are disabled for mobility purposes.*

(1) The City of Boston may ask any person using or operating an EPAMD on public property in the City of Boston to provide evidence that the person's use or operation of the EPAMD is required because of his or her mobility disability. The City shall accept one (1) or more of the following as evidence that a person's use or operation of an EPAMD is required because of his or her mobility disability:

(i) A valid disability parking placard or card issued by the Commonwealth of Massachusetts, presented by a person at the time of his or her use or operation of the EPAMD;

(ii) Any other valid proof of disability issued by the Commonwealth of Massachusetts, presented by a person at the time of his or her use or operation of the EPAMD;

(iii) A verbal representation by the person on, using or operating the EPAMD that his or her use or operation of the EPAMD is required because of his or her mobility disability. However, the City of Boston may assess any penalty or take any other action authorized under this section 16-12.38A if such person's verbal representation that his or her use or operation of the EPAMD is required because of his or her mobility disability is contradicted by observable fact, as determined by the City of Boston.

(2) Any person on, using or operating an EPAMD on public property in the City of Boston who is unable to present the required evidence of his or her mobility disability at the time of his or her use or operation of an EPAMD as described above and as determined by the City of Boston, shall be deemed in violation of the provisions of this section.

(b) *Groups of EPAMDs.* Under no circumstances may any individual permitted to use EPAMDs under the provisions of this section 16-12.38A.5 travel in a group of more than two (2) on the sidewalks, public ways, parks, or pedestrian ways and areas in the City of Boston. When traveling in a group of two (2) EPAMDs, such individuals shall travel only in single file and shall not travel side-by-side in the City of Boston.
(Ord. 2011 c. 8)

16-12.38A.6 Use of EPAMDs for Advertising.

Except for the advertisement of and dissemination of information about the tour operation, no person or tour operator shall, for the purpose of advertising goods, wares or merchandise for sale, while on and/or using an EPAMD in any street or on other public property in the City of Boston, carry and display any show card, placard or sign, or distribute to persons for the purpose of advertising goods, wares or merchandise for sale, handbills, cards, circulars or papers.

(Ord. 2011 c. 8)

16-12.38A.7 Penalties.

Any person violating the provisions of this section 16-12.38A shall be subject to a fine of fifty (\$50.00) dollars for a first offense and one hundred (\$100.00) dollars for a second or any subsequent offense. In addition to the fines stated above, any tour operator violating the provisions of this section 16-12.38A shall be subject to a fine of five hundred (\$500.00) dollars for each offense. Depending on the severity of the offense, as determined by the Boston Police Department, a violation of any of the provisions of this section may also result in suspension or revocation of a tour operator's license to use EPAMDs from the Boston Police Department's Hackney Division.

(Ord. 2011 C.8)

16-12.38A.8 Enforcement.

The Boston Transportation Department and the Boston Police Department shall have the authority to enforce this section. The provisions of Massachusetts General Laws c. 40, s. 21D may be used to enforce these sections. The Boston Police Department shall have the authority to impound any EPAMD in violation of these sections.

(Ord. 2011 c. 8)

16-12.38A.9 Regulatory Authority.

The Commissioner of the Boston Transportation Department and the Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections. Pursuant to St. 1949, c. 222, the Commissioner of the Boston Police

Department may charge an appropriate fee for such services attendant to the registration and licensure process.

(Ord. 2011 c. 8)

16-12.38A.10 Severability.

If any provision of these sections is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2011 c. 8)

16-12.39 Pedicabs.

a. *Definition of Pedicabs.* A bicycle-like vehicle that has at least three (3) wheels, that transports or is capable of transporting passengers on seats attached to the bicycle, that is propelled by an individual or individuals, and that is used for transporting passengers for hire.

b. Operation of Pedicabs.

1. Unless otherwise permitted by City rule or regulation, it shall be unlawful for any person to ride or operate a pedicab upon public property in the City of Boston without a license for the vehicle from the Boston Police Department's Hackney Division. The vehicle's license must be renewed annually and a fee as determined by the Boston Police Commissioner shall apply. Public property includes, but is not limited to, all streets, sidewalks, parks, plazas, or any area under the care, custody, and control of the City. Notwithstanding the above, an additional license from the Parks Commission may be required to operate within certain public property.

2. Unless otherwise permitted by City rule or regulation, it shall be unlawful for any person to ride or operate a pedicab upon public property in the City of Boston without a license to operate a pedicab from the Boston Police Department's Hackney Division. The operator's license must be renewed annually and a fee as determined by the Boston Police Commissioner shall apply.

3. No person may operate a pedicab in the City of Boston unless the person possesses a valid driver's license.

4. No person may operate a pedicab in the City of Boston unless the proposed route and times of operation have been approved by the Boston Transportation Department.

5. No person may place into service or operate any pedicab or other like vehicle, three wheeled or otherwise, with a fixed bench or trailer, unless approved by the Police Commissioner and inspected for condition and proven to be safe and roadworthy.

c. *Penalties.* An individual who violates paragraph b. of this section shall be subject to a fine of five hundred (\$500.00) dollars for a first offense and one thousand (\$1,000.00) dollars for any subsequent offense, but a court may authorize public service in lieu of all or part of this fine. Depending upon the severity of the offense, a violation of any rule or regulation regarding the operation of such a pedicab may also result in suspension or revocation of the pedicab owner's license to operate from the Boston Police Department's Hackney Division.

d. *Enforcement.* The Boston Transportation Department and the Boston Police Department shall have the authority to enforce those sections. The provisions of M.G.L. c. 40, s.21D may be used to enforce this section. The Boston Police Department shall have the authority to impound any vehicle in violation of these sections.

e. *Regulatory Authority.* The Commissioner of the Boston Transportation Department and the Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

f. *Severability.* The provisions of this section shall be severable and if any section, part or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the decision of the court shall not affect or impair any remaining section, part or portion thereof.

(Ord. 2007 c. 6)

16-12.40 Prohibiting Operation of Party Bikes.

a. *Definition of Party Bikes.* A bicycle-like vehicle that has at least three (3) wheels, where some

seats are not facing the direction of travel, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is propelled or is capable of being propelled, by more than one (1) individual, that has a frame that is more than five (5) feet in width, and that is used for transporting passengers for hire.

b. *Operation of Party Bikes Prohibited.* Unless otherwise permitted by City rule or regulation, it shall be unlawful for any person to use, ride, or operate a party bike upon public property in the City of Boston. Public property includes, but is not limited to, all streets, sidewalks, parks, plazas, or any area under the care, custody, and control of the City.

c. *Penalties.* An individual who violates paragraph b. of this section shall be subject to a fine of five hundred (\$500.00) dollars for a first offense and one thousand (\$1,000.00) dollars for any subsequent offense, but a court may authorize public service in lieu of all or part of this fine.

d. *Enforcement.* The Boston Transportation Department and the Boston Police Department shall have the authority to enforce this section. The provisions of M.G.L. c. 40, s.21D may be used to enforce this section. The Boston Police Department shall have the authority to impound any vehicle in violation of these sections.

e. *Regulation Authority.* The Commissioner of the Boston Transportation Department and the Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

f. *Severability.* The provisions of this section shall be severable and if any section, part or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the decision of the court shall not affect or impair any remaining section, part of portion thereof.
(Ord. 2007 c. 6)

16-12.41 Parking in a Marked Bike Lane or Marked Shared Bike Lane.

a. *Purpose.* The purpose of this section is to establish guidelines for parking motor vehicles in marked bike lanes and shared bike lanes.

b. *Prohibition From Marked Bike Lanes and Shared Lanes.* No driver shall stand or park any motor vehicle in a marked bike or shared bike lane in the City of Boston.

c. *Penalties.* Any person violating the provisions of this section shall be subject to a fine of one hundred dollars and no cents (\$100.00) for each offense. This fine shall increase by thirty-three dollars (\$33.00) if it remains unpaid at least twenty-one (21) days after issuance of a notice of the violation.

d. *Exceptions.* Nothing in these sections shall prevent standing or parking a motor vehicle in a marked bike lane or shared bike lane: (i) when necessary to avoid conflict with other traffic or pedestrians; (ii) in compliance with the lawful direction of a police officer or official traffic sign; or (iii) unless authorized to do so under existing regulations (including but not limited to designated residential parking lanes or parking meters).

e. *Enforcement.* The Boston Transportation Department and the Boston Police Department shall have the authority to enforce this section. The provisions of M.G.L. c. 90, s. 20A1/2 may be used to enforce these sections, and the adjudication provisions of this chapter and of Chapter 190 of the Acts of 1982 shall apply to this section. The Boston Police Department and Boston Transportation Department shall have the authority to impound any motor vehicle in violation of these sections.

f. *Regulatory Authority.* The Commissioner of the Boston Transportation Department and the Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.
(Ord. 2009 c. 7)

16-12.42 Parking or Stopping Within Any Pedestrian Safety Zone.

a. *Prohibition of Non-Authorized Vehicles in the Zone.* Any vehicles stopped, standing, or parked in a Pedestrian Safety Zone may be ticketed and fined one hundred dollars (\$100.00), if not displaying a valid Pedestrian Safety Zone Permit ("Permit"). Authorized vehicles displaying a valid Permit are allowed to load/unload at designated loading zone

areas within the Pedestrian Safety Zone between the hours of 6:00 p.m. and 11:00 a.m. No vehicles, regardless of valid Pedestrian Safety Zone Permit, shall be allowed to stop, stand or park in the Zone between the hours of 11:00 a.m. and 6:00 p.m. The fine shall increase by thirty-three dollars (\$33.00) if it remains unpaid at least twenty-one (21) days after the issuance of a notice of the violation.

b. *Enforcement.* The Boston Transportation Department and Boston Police Department shall have the authority to enforce this section. The provisions of M.G.L. c. 90, s. 20A1/2 may be used to enforce these sections, and the adjudication provisions of this chapter and of Chapter 190 of the Acts of 1982 shall apply to this section. The Boston Police Department and Boston Transportation Department shall have the authority to impound any motor vehicle in violation of these sections.

c. *Regulatory Authority.* The Commissioner of the Boston Transportation Department and the Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

d. *Severability.* If any provision of these sections is held as invalid, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect. (Ord. 2010 c. 2)

16-13 BRIDGES AND WHARVES.

16-13.1 Rules Concerning Bridges and Wharves.

No person shall deface or injure any public bridge or any wharf connected therewith, or unnecessarily open the draw of any such bridge, or obstruct the passage of the same; nor shall any person, without the consent of the draw-tender, make fast to any public bridge, or draw, guard or pier thereof, any vessel, scow, raft, or float; nor shall any person remain inside of the draw-gates, or on any pier, wharf, fender, or appurtenance of such draw, while such gates are closed; nor shall any person, having under his charge a vessel passing through the draw of any such bridge, refuse or neglect to comply with the directions of a draw-tender relating to such passing. (CBC 1975 Ord. T14 § 318)

16-13.2 Relative to the Licensing of Certain Bridges and Tunnels.

a. No person shall undertake to construct, maintain, set up or operate, whether or not for a fee or charge, any bridge or tunnel wholly located within the City of Boston, not existing on the date of passage hereof, without first having obtained a license therefor, granted by the Mayor and City Council, only upon recommendation of the Conservation Commission indicating that the same is without significant adverse environmental effect.

b. Without further authority, the Corporation Counsel shall seek to restrain any violation of the provisions hereof.

(Ord. 1981 c. 36 §§ 1, 2)

Editor's Note:

The date of passage of this subsection was July 14, 1982.

16-14 RESERVED.

(Repealed by Ord. 1991 c. 5 § 35)

16-14.1 Reserved.

(CBC 1975 Ord. T14 § 319; Repealed by Ord. 1991 c. 5 § 35)

16-15 USE OF ROADWAY FOR VEHICLES.

16-15.1 Horse-Drawn Vehicles.

No person having charge of a horse-drawn vehicle shall allow the same without an animal harnessed thereto remain in a street for more than five (5) minutes.

(CBC 1975 Ord. T14 § 320)

16-15.2 Reserved.

(CBC 1975 Ord. T14 § 321; Repealed by Ord. 1991 c. 5 § 36)

16-15.3 Bells on Vehicles.

No person shall drive an animal drawing a vehicle in a street during any time that snow or ice is upon or covers the street, unless there are three (3) or more bells attached to the shaft or pole of the vehicle or to the animal or to some part of the harness thereon.

(CBC 1975 Ord. T14 § 322)

16-15.4 Direction of Vehicles.

No person having charge of a vehicle shall, unless otherwise directed by a Police Officer, pass along a street or public alley in a direction contrary to that designated by the sign placed on the side of such street or alley.

(CBC 1975 Ord. T14 § 323)

16-15.5 Vehicles for Hire.

a. In the City of Boston, no person, firm, or corporation driving or having charge of a taxicab or other private vehicle shall offer the vehicle for hire for the purpose of transporting, soliciting and/or picking up a passenger or passengers unless said person is licensed as a hackney driver and said vehicle is licensed as a hackney carriage by the Police Commissioner of said City. In addition, no person, firm, or corporation driving or having charge of a taxicab or other private vehicle shall operate identifiable taxi top lights for the purpose of transporting, soliciting and/or picking up a passenger or passengers unless said person is licensed as a hackney driver and said vehicle is licensed as a hackney carriage by the Police Commissioner of said City.

b. Any Police Officer witnessing a violation of paragraph a. of this subsection may arrest the driver of the vehicle and seize evidence of said violation. Such evidence shall include but is not limited to, meters, whether mechanical or electrical, for the computation of fares based on mileage or predetermined periods of time. Any Officer who seizes such items as evidence of a violation of paragraph a. of this subsection shall take them to a place of safety until they are produced or used as evidence in any trial or other Court proceedings. All such property seized shall be disposed of as the Court Orders, and may be forfeited, sold or destroyed in the discretion of the Court.

c. No owner or association of owners, whose principal place of business is located in the City of Boston, and who owns a taxicab or taxicabs licensed by the City of Boston, shall be allowed to dispatch taxicabs within the City of Boston unless said taxicabs are licensed by the Boston Police Commissioner and the operators of said taxicabs possess valid hackney carriage driver licenses issued by the Boston Police Department. However, nothing herein contained shall

be construed as prohibiting a driver of a taxicab licensed outside the City of Boston from driving through said City, or from accepting within the City of Boston, a passenger, passengers, packages or other merchandise if summoned by or at the request of said passenger or client by telephone, or by radio dispatch from the owner or operator's principal place of business outside the City of Boston provided that the name, pick-up address, and destination of said passenger or client are immediately supplied by the driver to any inquiring Police Officer.

d. Anyone found in violation of this subsection shall be punished by fine of not more than five hundred (\$500.00) dollars for each violation. (CBC 1975 Ord. T14 § 323; Ord. 1986 c. 13 § 2-5; Ord. 2002 c. 8)

16-15.6 Use of Protective Headgear.

All persons operating a motorized bicycle, as defined by the Registry of Motor Vehicles of the Commonwealth, or riding as a passenger on a motorized bicycle shall wear protective headgear in the City of Boston. The headgear shall conform with such minimum standards of construction and performance as the registrar may prescribe for use by motorcycle operators. (Ord. 1985 c. 13)

CITY OF BOSTON CODE - ORDINANCES

16-16 STREET CARS.**16-16.1 Speed Limits.**

No person having the control of the speed of a street railway car on the surface of any street, except in spaces especially reserved for street railway cars, shall allow such car to go at a rate of speed faster than ten (10 m.p.h.) miles per hour in any part of the City included within the following bounds: Charles Street, Park Square, Eliot Street, Kneeland Street, Atlantic Avenue, Commercial Street, Causeway Street and Leverett Street, including said boundary streets; or in any other part of the City Proper, so called, lying north of Massachusetts Avenue and Southampton Street, at a rate of speed faster than twelve (12 m.p.h.) miles per hour; or in any other part of the City at a rate of speed faster than fifteen (15 m.p.h.) miles per hour; or in turning a corner in any part of the City at a rate of speed faster than four (4 m.p.h.) miles per hour.

(CBC 1975 Ord. T14 § 325)

16-16.2 Intersections.

In approaching any public or private way intersecting that in which the railway is located, the speed of the car must be reduced to such a rate as will make it possible to stop immediately.

(CBC 1975 Ord. T14 § 326)

16-16.3 Curves.

In rounding curves and in all cases where the view of the motorman is obstructed for any reason, the speed of the car must be reduced to meet the condition of limited vision of railway and highway.

(CBC 1975 Ord. T14 § 327)

16-16.4 Grades.

Before taking any heavy descending grade the speed of the car must be so reduced as to test the working of the brakes.

(CBC 1975 Ord. T14 § 328)

16-16.5 Proximity to Roads.

Where the railway lies within a highway and is close to narrow travelled road the speed of the car

must be reduced to meet this condition whenever such road is in rightful use by others.

(CBC 1975 Ord. T14 § 329)

16-16.6 Joint Use of Roads.

Where the railway occupies a portion of the travelled road the absence of any exclusive right of way on the part of the car makes it necessary that its speed be from time to time so restricted as to permit others to safely exercise their common right to a reasonable use of the road.

(CBC 1975 Ord. T14 § 330)

16-16.7 Safety Distances.

No person having the control of the speed of a street-railway car in any street shall, except in case of accident, or to prevent injury to persons or property, allow such a car to go within ten (10') feet of a car or other vehicle in front.

(CBC 1975 Ord. T14 § 331)

16-16.8 Avoiding Collisions; Obeying Police Directions.

No person having control of the speed of a street-railway car shall allow it in any street to go against or afoul of any person, vehicle, or thing whatsoever; nor shall any such person fail to stop his car at any place in a street when directed by a Police Officer so to do.

(CBC 1975 Ord. T14 § 332)

16-16.9 Precautions; Warning Bells.

No person having control of the speed of a street-railway car passing in a street shall fail to keep a vigilant watch for all teams, carriages, and persons, especially children, nor shall such person fail to strike a bell several times in quick succession on approaching any team, carriage, or person, and no person shall, after such striking of a bell, delay or hinder the passage of the car.

(CBC 1975 Ord. T14 § 333)

16-16.10 Prompt Stopping.

No person having control of the speed of a street-railway car passing in a street shall, on the

appearance of danger to any team, carriage, or person from, or on the appearance of any obstruction to, his car, fail to stop the car in the shortest time and space possible.

(CBC 1975 Ord. T14 § 334)

16-16.11 Stopping in Intersections.

No person having control of the speed of a street-railway car shall stop any such car on a cross-walk or in front of an intersecting street, except to avoid collisions or danger to persons or as directed by a Police Officer.

(CBC 1975 Ord. T14 § 335)

16-16.12 Spreading of Gravel, Sand, Etc.

No street-railway company shall, except by permission of the Commissioner of Public Works, sprinkle any gravel or sand, or any salt or other article of a decomposing nature, on its tracks or rails in a street, or wash such tracks or rails with brine or pickle.

(CBC 1975 Ord. T14 § 336)

16-17 MOVING BUILDINGS AND BULKY MACHINERY.

16-17.1 Moving Buildings.

No person shall move bulky machinery, cars, or other merchandise, through, or place or move a building in or through, a street, except in accordance with a permit from the Commissioner of Public Works.

(CBC 1975 Ord. T14 § 337)

16-17.2 Removing Hindrances.

No person moving a building in a street under a permit therefor shall remove any shade-tree or branch thereof in a street, except in accordance with the permission of the Parks and Recreation Commission; or interfere with any fire-alarm telegraph wire, except in accordance with the permission of the Fire Commissioner; or interfere with any street lamp or lamp-post, except in accordance with the permission of the Commissioner of Public Works.

(CBC 1975 T 14 § 338)

16-18 SIDEWALKS.

16-18.1 Use of Sidewalks.

No person shall use a sidewalk for any purpose which subjects it to more than ordinary wear, or injures the material of which it is composed, unless such sidewalk is, by the owner of the abutting estate, constructed of granite or other stone, in a manner satisfactory to the Commissioner of Public Works, and kept in repair by such owner.

(CBC 1975 Ord. T14 § 339)

16-19 PUBLIC GROUNDS.

16-19.1 Use of Public Grounds.

No person shall, in or upon the Common, Public Garden, or other public grounds of the City, walk, stand, or sit upon the grass, or upon any land planted or prepared for planting or upon a fountain, monument, or statue, or a bandstand, wall, fence, or other structure, or within the basin of a pond otherwise than upon ice, or stand or lie upon a bench or sleep thereon, except that the Mayor may from time to time by proclamation and order permit walking, standing, and lying upon the grassed land of the Common or designated part thereof, or the grassed land of any other public grounds or any other designated part thereof, except the Public Garden, for such days or parts of such days as he shall specify; and he may in like manner by proclamation and order permit sleeping on such days as he shall specify, on any of the benches and any of the grassed lands of the Common or other public grounds, except the Public Garden. Nothing contained in this subsection or in Subsection 16-19.4 of this section shall be held to prohibit the doing of any act in the reasonable performance of his work or employment by any person acting under the authority or direction of any Board or Officer in charge of any of the places described in this subsection.

(CBC 1975 Ord. T14 § 340; Ord. 1977 c. 11)

16-19.2 Public Addresses, Vending, Etc.

No person shall, in any of the public grounds, use any device intended to amplify or broadcast sound using a megaphone, loud speaker, or any other amplification device, expose for sale goods, wares, or

merchandise, erect or maintain a booth, stand, tent, or apparatus for purposes of public amusement or show, except in accordance with a permit from the Mayor, providing, however, that such permit shall be in addition to any other license or permit required by law, and that when such use is for commercial purposes, or where admission to an event, show, exhibition, amusement or the like is restricted to those making a payment of consideration, which shall include payment, donation or contribution of money or a thing of value, or surrender of a ticket, voucher, token or the like, obtained by purchase, for value, or as result of a donation or contribution, or the like, the fee shall be that specified in Subsection 18-1.16(35) hereof, and provided that when the portion of the public ground to be used is within the Common, the Public Garden, or, more than five hundred (500) persons are expected to view or attend the same simultaneously and the same is within one thousand (1,000) feet of any dwelling house, such permit shall be invalid unless approved by the City Council. (CBC 1975 Ord. T14 § 341; Ord. 1977 c. 10; Ord. 1982 c. 40 § 2)

16-19.3 Permit for Use of Park Land for Demonstrations.

No person or organization shall hold or sponsor a demonstration, as herein defined, upon park land unless a permit therefor has first been obtained from the Commissioner of Parks and Recreation. The Commissioner shall honor all requests for such permits, except that the Commissioner may specify the time, place and manner of the demonstration in order to accommodate competing demands for public use of park land and to protect the public safety and convenience. The permit shall require that the permittee be responsible for restoration, rehabilitation and cleanup of the park land which is the subject of the permit. The term "demonstration" shall include demonstrating, picketing, speechmaking, marching, holding of vigils and all other like forms of conduct which involve the communication or expression of views or grievances engaged in by one or more persons, the conduct of which has the effect, intent or propensity to attract a substantial crowd of onlookers or participants. The term "demonstration" shall not include casual park land use which does not have the intent and propensity to attract a substantial crowd of onlookers or participants.

As a condition of permit issuance, the Commissioner shall require in the nature of a fee the filing of a bond with a satisfactory surety payable to the Department of Parks and Recreation in an amount sufficient, as determined by the Commissioner, to cover costs of restoration, rehabilitation and cleanup of the park land which is the subject of the permit. In lieu of a bond, the permittee may elect to deposit cash equal to the amount of the required bond. Any amount not actually used to restore or rehabilitate the park land shall be returned to the permittee. Whoever violates any provision of this section shall be punished by a fine of three hundred (\$300.00) dollars, and shall be liable for the cost of restoration, rehabilitation and cleanup of the park land used for the demonstration and the reasonable costs of collection of the fee. (Ord. 1983 c. 26 § 1)

16-19.4 Profanity and Other Offenses.

No person shall, in the Common, Public Garden, or other public grounds of the City, annoy another person; or utter profane, threatening, abusive, obscene, or indecent language or loud outcry; or do any obscene or indecent act; or have possession of, drink, or be under the influence of, intoxicating liquor; or play any game of chance or have possession of any instrument of gambling; or dig up, cut, break, deface, defile, ill-use, handle, take or remove any turf, flower, plant, bush, tree, rock, sign, fence, structure or other thing or part thereof belonging to the City; or cut, break, or remove the ice in or from a pond; or drive an animal, or suffer an animal in his charge to feed or go at large, except dogs on the Common; or propel any vehicle, except a vehicle pushed or drawn by hand and designed to convey children; or throw a stone or other missile; or injure or have possession of a fish, bird, or wild animal; or injure or disturb a bird's nest or eggs; or set a trap or snare; or drop or place and suffer to remain paper or other refuse, except in receptacles designated therefor. (CBC 1975 Ord. T14 § 342)

16-20 WATER SUPPLY.*Editor's Note:*

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

16-20.1 Use of Water.

No person shall, without permission of the Commissioner of Public Works, make an opening in or connection with, or turn on or off or draw off water from, a water pipe or reservoir owned by the City; or, except in accordance with a written permit from the Commissioner or in case of fire in the neighborhood, allow water to be taken from his premises, or use water for any purpose other than that for which he pays; or unscrew or open a hydrant attached to the water pipes of the City; or, except in accordance with the regulations of the Commissioner, discharge water through a hand-hose. Nor shall any person interfere with the registering apparatus of a water meter put in by the City, or damage or injure such meter. (CBC 1975 Ord. T14 § 343)

16-21 WARD-ROOMS; FANEUIL HALL.**16-21.1 Ward Meetings.**

No persons not included in a call for a meeting held under a permit granted by the Assistant Commissioner of Real Property and no person, when objection is made by the majority of the applicants for such permit present at the meeting or by the presiding officer at such meeting, shall mark a ballot, or vote, or remain, at such meeting. (CBC 1975 Ord. T14 § 344)

16-21.2 Voter Lists.

No person, other than the Assistant Commissioner of Real Property or some person by him duly authorized, shall carry away or interfere with a copy of a list of voters posted or hung up in a ward-room. (CBC 1975 Ord. T14 § 345)

16-21.3 Decorations.

No person shall put up any decoration in or on Faneuil Hall unless authorized thereto by an order of the City Council; nor shall any person so authorized drive any nail or screw into the building or any part thereof in putting up any decoration. (CBC 1975 Ord. T14 § 346)

16-22 NUMBERING OF BUILDINGS.**16-22.1 Regulation Concerning Numbering of Buildings.**

No person shall neglect or refuse to affix to or inscribe on any building owned by him the street number assigned to such building by the Commissioner of Inspectional Services; nor shall any person affix to or inscribe on or suffer to remain on any building owned or occupied by him a street number other than the one assigned to such building by the Commissioner of Inspectional Services. (CBC 1975 Ord. T14 § 347; Ord. 1991 c. 5 § 37) Penalty, see subsection 16-23.6

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

16-23 NOTICES AND PLACARDS.**16-23.1 Prior Consent to Post Notices.**

No person shall post up or affix in any manner, paint, print or write, or cause to be painted, printed, or written, a notice, advertisement, or bill, upon a post, pole, fence, wall, or building in the City, unless he has previously obtained the consent of the person having possession of such post, pole, fence, wall, or building. (CBC 1975 Ord. T14 § 348) Penalty, see subsection 16-32.6

16-23.2 Removal After Elections.

No candidate for any public office shall allow any political notice, advertisement or bill bearing his name

to remain posted up or affixed in any manner to a post, pole, fence, tree, wall, building or other structure in the City, beyond thirty (30) days after the election in which he was a candidate, without having previously obtained the written consent of the person having possession of such post, pole, fence, tree, wall, building or other structure.

(CBC 1975 Ord. T14 § 349) Penalty, see subsection 16-32.6

16-23.3 Posting in Public Places.

No person shall, without the consent of the Mayor, post up, or affix in any manner, or paint, print, or write, or cause to be painted, printed, or written, a notice, advertisement, or bill, upon a curbstone, sidewalk, tree, telegraph-pole, lamp-post or hydrant, in a street or public place, or upon a walk, fence, or building belonging to the City.

(CBC 1975 Ord. T14 § 350) Penalty, see subsection 16-32.6

16-23.4 Reserved.

(CBC 1975 Ord. T14 § 351; Recodified by Ord. 1991 c.5 § 41) Penalty, see subsection 16-32.6

16-24 JUNK AND SECOND-HAND ARTICLES.

16-24.1 Business Hours.

No person keeping a shop for the purchase, sale, or barter of junk, old metals, or second-hand articles shall purchase any of the aforesaid articles or have his shop open for the transaction of business, except between sunrise and 9:00 p.m. of any week day except Saturday, on which day such shop may be kept open, and such articles purchased, from sunrise until 10:00 p.m.; and no such person or junk collector shall directly or indirectly either purchase or receive by way of barter or exchange any junk, old metals, or second-hand articles from a minor or apprentice, knowing or having reason to believe him to be such.

(CBC 1975 Ord. T14 § 352)

16-25 OBSCENE AND PORNOGRAPHIC MATERIAL.

16-25.1 Fine for Selling.

Whoever sells, or distributes, or imports, or loans, or possesses with the intent to sell, or exhibits, prints, or publishes for the purpose of selling or distributing a book, pamphlet, ballad, printed paper, phonographic record, print, picture, figure, image, or description which depicts or describes:

a. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, or

b. Patently offensive representations or descriptions of masturbation, excretory functions, lewd exhibition of the genitals, shall be subject to a fine of fifty (\$50.00) dollars for each day on which such violation occurs or during which such violation continues.

[This ordinance was passed in 1973, under the guidelines established in *Miller v. California*, 441 U.S. 925, 37 L. Ed 2d 419, (June 21, 1973).]
(CBC 1975 Ord. T14 § 353)

16-26 UNREASONABLE NOISE.

16-26.1 General Prohibition and Definitions.

No person shall make or cause to be made any unreasonable or excessive noise in the City, by whatever means or from whatever means or from whatever source.

As used herein, the following terms shall have the following meanings:

a. *dBa* shall mean A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute, "Specifications for Sound Level Meters (ANSI S1.4 1971)", properly calibrated, and operated on the "A" weighting network.

b. *Loud amplification device or similar equipment* shall mean a radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loud speaker, or sound amplifier which is operated in such a manner that it creates unreasonable or excessive noise.

c. *Unreasonable or excessive noise* shall mean

1. Noise measured in excess of 50 dBA between the hours of 11:00 p.m. and 7:00 a.m., or in excess of 70 dBA at all other hours; or

2. In the absence of an applicable noise level standard or regulation of the Air Pollution Control Commission, any noise plainly audible at a distance of three hundred (300') feet or, in the case of loud amplification devices or similar equipment, noise plainly audible at a distance of one hundred (100') feet from its source by a person of normal hearing.
(Ord. 714 § 354; Ord. 1991 c. 4 § 1) Penalty, see subsection 16-32.6

16-26.2 Unreasonable Noise-Making Automobile Safety Devices.

The use, maintenance, installation or keeping of any device whose purpose it is to protect an owner's vehicle from damage and/or theft through the mechanical creation of a noise of sufficient magnitude to be plainly audible at a distance of two hundred (200') feet from such device which does not automatically terminate any such noise within five (5) minutes shall be unlawful. Penalty for violation of this section shall be a fine of fifty (\$50.00) dollars. This section shall be deemed a part of the Environment Protection Ordinances, so called, and shall be enforced pursuant to the provisions of Chapter 40, Section 21D of the General Laws.
(Ord. 1984 c. 4; [354a]) Penalty, see subsection 16-32.6

16-26.3 Unreasonable Noise From Automobile Safety Devices.

The use of any device whose purpose it is to protect an owner's vehicle from damage and/or theft through the mechanical creation of a noise of sufficient magnitude to be plainly audible at a distance of two hundred (200') feet from such device which

does not automatically terminate any such noise within five (5) minutes shall be declared an unlawful use of a noise making instrument. The penalty for violation of this ordinance shall be fifty (\$50.00) dollars and shall be in compliance with the provisions of Chapter 40, Section 21D of the General Laws. This section shall be deemed a part of the Environment Protection Ordinances, so called.

(Ord. 1984 c. 5 § 1 [354b]) Penalty, see subsection 16-32.6

16-26.4 Regulation of Construction Hours.

No erection, demolition, alteration, or repair of any building and excavation in regard thereto, except between the hours of 7:00 a.m. and 6:00 p.m., on weekdays or except in the interest of public safety or welfare, upon the issuance of and pursuant to a permit from the Commissioner, Inspectional Services Department, which permit may be renewed for one or more periods of not exceeding one week each.

(Ord. 1984 c.10 § 1 [354c]; Ord. 1991 c. 5 § 38) Penalty, see subsection 16-32.6

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9.9 of this Code).

16-26.5 Noise Levels at Residential Lot Lines.

It shall be unlawful for any person except in emergencies by Public Utility Companies to operate any construction device(s), including but not limited to impact devices, on any construction site if the operation of such device(s) emits noise, measured at the lot line of a residential lot in excess of 50 dBA between the hours of 6:00 p.m. and 7:00 a.m.

(Ord. 1985 c. 3 § 1 [354d]) Penalty, see subsection 16-32.6

16-26.6 Disturbing the Peace.

It shall be unlawful for any person or persons in a residential area within the City of Boston to disturb the peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of

any radio, phonograph or sound related producing device or instrument, or from the playing of any band or orchestra, or from the use of any device to amplify the aforesaid noise, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, or from the use of any device to amplify such noise provided, however, that any performance, concert, establishment, band, group or person who has received and maintains a valid license or permit from any department, board or commission of the City of Boston authorized to issue such license or permit shall be exempt from the provisions of this section. Unreasonable or excessive noise shall be defined as noise measured in excess of 50 dBA between the hours of 11:00 p.m. and 7:00 a.m. or in excess of 70 dBA at all other hours when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit. The term dBA shall mean the A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute, "Specifications for Sound Level Meters (ANSI S1.4 1971)", properly calibrated, and operated on the "A" weighting network.

Any person aggrieved by such disturbance of the peace may complain to the police about such unreasonable or excessive noise. The police, in response to each complaint, shall verify by use of the sound level meter described herein that the noise complained of does exceed the limit described herein and if so, may thereupon arrest and/or make application in the appropriate court for issuance of a criminal complaint for violation of M.G.L. c. 272, S. 53, which sets forth the penalties for disturbing the peace.

(Ord. 1986 c.19 §§ 1, 2 [354e]; Ord. 1991 c. 4 § 2) Penalty, see subsection 16-32.6

16-26.7 Prohibition Against Certain Sound Devices in Motor Vehicles.

a. It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in subsection 16-26.1, in or on a motor vehicle which is either moving or standing in a public way.

b. No person shall operate or use on any public right-of-way any electronically operated or electronic sound signal device attached to, on or in a motor vehicle from which food or any other items are sold or offered for sale when the vehicle is stopped, standing, or parked. This subsection shall not apply to sound signal devices used as a safety device, such as but not limited to a car horn or back-up signal that is actually used for its intended purpose. For the purposes of this subdivision the term "stopped" means the halting of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with a police officer or other authorized enforcement officer or a traffic control sign or signal. For purposes of this subdivision, the terms "standing" and "parked" shall be as defined in the City of Boston Traffic Rules and Regulations.

(Ord. 1991 c. 4 § 3; Ord. 2008 c. 7) Penalty, see subsection 16-26.11, 16-32.6

16-26.8 Prohibition Against Loud Amplification Devices in Public Ways or Places.

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in subsection 16-26.1, in a public way or in any other public place.

(Ord. 1991 c. 4 § 3) Penalty, see subsection 16-26.11, 16-32.6

16-26.9 Prohibition Against Loud Amplification Devices in or on Residential Premises.

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in subsection 16-26.1, in a dwelling house or on the land or other premises of such dwelling house.

(Ord. 1991 c. 4 § 3) Penalty, see subsection 16-26.11, 16-32.6

16-26.10 Enforcement.

Subsections 16-26.7, 16-26.8, or 16-26.9 may be enforced by any police officer, any special police officer designated by the Commissioner to do so, by

any designee of the Air Pollution Control Commission or of the Board of Health and Hospitals or of the Commissioner of Inspectional Services. The Housing Court may enjoin violation of these subsections. (Ord. 1991 c. 4 § 3; Ord. 1995 c. 5)

16-26.11 Penalties.

a. Any person who violates subsections 16-26.7, 16-26.8, or 16-26.9 shall be fined fifty dollars and no cents (\$50.00) for the first violation in any twelve (12) month period, one hundred dollars and no cents (\$100.00) and for the second violation in any twelve (12) month period, and two hundred dollars and no cents (\$200.00) for the third violation and each subsequent violation in any twelve (12) month period. The enforcing person shall make a record of the complaint, such record to include the following information, to the extent that it is available: (i) name and address of person in violation, (ii) name and address of landlord of person in violation, if applicable, (iii) date of violation, (iv) time of violation, (v) location of violation, (vi) source of violation, and (vii) motor vehicle registration number, if applicable. If the person in violation refuses to provide the above-required information or if any information provided proves to be false, then said person shall be punished by a fine of an additional one hundred dollars and no cents (\$100.00).

b. The Air Pollution Control Commission shall keep and make available to the public and all persons authorized to enforce these provisions, and the certification or the information there appearing by an enforcing official to a court shall establish a rebuttable presumption of the accuracy thereof.

No person, being the landlord or person in charge of a residential structure shall permit, allow, or suffer repeated violations of these ordinances after notice thereof and shall be fined at the time of the third such violation and at the time of every violation thereafter within twelve (12) months of the first violation by a fine of one hundred fifty dollars and no cents (\$150.00) and by a fine of three hundred dollars and no cents (\$300.00) for each violation thereafter. It shall be a defense that the landlord or person in charge of a residential structure has made and documented good faith efforts, including but not limited to the seeking of a court order, to prevent violations.

c. For all other violations of these sections, the penalties for such violations are: (i) for the first violation in any twelve (12) month period, one hundred dollars and no cents (\$100.00), (ii) for the second violation in any twelve (12) month period, two hundred dollars and no cents (\$200.00), and (iii) for the third violation and each subsequent violation in any twelve (12) month period, three hundred dollars and no cents (\$300.00).

d. The enforcing person shall provide a person in violation with a written notice of the violation and fine. If applicable, a copy of each notice of violation shall be sent to the person in violation's landlord and to the school, college, or university at which the person in violation is enrolled.

All fines issued under these sections may be recovered by the noncriminal disposition procedures promulgated in G.L. c. 40, s. 21D, which procedures are incorporated herein by reference; provided, however, that if a person in violation fails to follow the procedures and requirements of G.L. c. 40, s. 21D, then the fine or fines shall be recovered by indictment or by complaint pursuant to G.L. c. 40, s. 41.
(Ord. 1991 c. 4, § 3; Ord. 1995 c. 5; Ord. 2003 c. 19 §§ 1, 2, 3)

16-26.12 Arrest and Seizure of Property.

Notwithstanding the provisions of any other ordinance of the City of Boston, if a person is arrested by a Boston police officer under the authority of the Massachusetts General Laws, including without limitation the provisions of G.L. c. 272, sec. 54 for disturbing the peace under G.L. c. 272, sec. 53, or any applicable Massachusetts General Law, the arresting officer may, pursuant to said General Laws, seize any loud amplification device or similar equipment, as defined in subsection 16-26.1, as evidence. In the event of such seizure for evidence by a Boston police officer incident to such arrest, such amplification device or similar equipment shall be inventoried and held by the Boston Police Department or its agents, and shall be returned to its owner according to the terms of this section, unless a court of competent jurisdiction orders otherwise.

The arresting officer, in addition to any other reports or procedures required of him, shall give the person claiming to be the owner of said loud amplification device or similar equipment a receipt indicating where, when, and for what reason said device or equipment was seized, and for what purpose it is being held. Copies of said receipt shall be filed in the Boston Police Department and shall be made available to the court. No receipt shall be redeemed and no such device or equipment shall be returned to any person unless and until all judicial proceedings that may be held regarding the criminal allegations shall have been finally completed; provided, however, that if a motor vehicle shall be seized incident to an arrest, such motor vehicle may be returned to its registered owner if said loud amplification device or equipment has been duly removed therefrom with the written permission of the registered owner of said motor vehicle. In such cases, the Police Department shall provide said owner with a receipt for the removed device or equipment as herein provided. (Ord. 1991 c. 4 § 3)

16-26.13 Exemptions.

The following are exempted from the provisions of Section 16-26 and shall not be considered unreasonable or excessive noise for purposes of this section:

- a. Noise from law enforcement motor vehicles.
- b. Noise from emergency vehicles which is emitted during an actual emergency.
- c. Noise which a person is making or causing to be made where such person has received and maintains a valid license or permit therefor from any department, board or commission of the City authorized to issue such license or permit; provided, however, that such noise shall be permitted only to the extent allowed by the license or permit. (Ord. 1991 c. 4 § 3)

16-26.14 Severability.

If any provision or subsection of this section shall be held to be invalid by a court of competent jurisdiction, then such provision or subsection shall be considered separately and apart from the remaining provisions or subsections of this section, which shall remain in full force and effect. (Ord. 1991 c. 4 § 4)

16-27 NUISANCE CONTROL.

16-27.1 Purpose.

In order to protect the health, safety, and welfare of the inhabitants of the City of Boston, this section shall permit the City to impose liability on property owners and other responsible persons for the nuisances and harm caused by unruly gatherings on private property and shall prohibit the consumption of alcoholic beverages by underage persons at such gatherings. (Ord. 2012 c. 8 § 1)

16-27.2 Definitions.

Eviction shall mean actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the premises.

Gathering shall mean a party or event where two (2) or more persons have assembled for a social occasion or social activity.

Premises shall mean any residence or other private property, place or location, including any commercial or business property.

Property owner shall mean the legal owner of record of a premises as listed by the tax assessor's records.

Public nuisance shall mean a gathering of persons on any premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood. Behavior constituting a public nuisance includes, but is not limited to excessive noise, obstruction of public ways by crowds or vehicles, illegal parking, the service of alcohol to underage persons, fights, and disturbances of the peace. (Ord. 2012 c. 8 § 1)

16-27.3 Mailing of Notice to Property Owners and Others.

If a police officer or other local officials have responded to a gathering constituting a public nuisance as defined pursuant to subsection 16-27.2, the Commissioner of the Boston Police Department or designee shall inform the Inspectional Services Department. The Commissioner of the Inspectional

Services Department or his designee shall cause a notice of response to be made within thirty (30) days of the gathering as follows:

a. Notice of response shall be mailed by certified mail to the property owner(s) of the premises where the gathering occurred as listed on the property tax assessment records. The notice shall advise the property owner(s) that the second response on the same premises within a one (1) year period, as measured from the date of the first notice, shall result in liability of the property owner.

b. Notice of response shall be sent by mail or other appropriate means to any person who was personally cited at the time of the offense. The notice shall be sent to the address stated on the individuals' government issued identification.

c. Notice of response shall be sent to the president/headmaster or his/her designee of an educational institution if the persons who are liable under subsections 16-27.4 and 16-27.5 are students at such educational institution. The notice shall be sent by mail or other appropriate means.
(Ord. 2012 c. 8 § 1)

16-27.4 Liability for a First Response to a Gathering.

If the police department or other local officials have responded to a gathering constituting a public nuisance on a premises under the provisions of this section or subsections, the following persons shall be jointly or severally liable for fines as set forth below, provided that no previous gathering constituting a public nuisance has occurred at the premises within the previous one (1) year period.

a. The person or persons residing on or otherwise in control of the premises where such gathering took place whether present or not.

b. The person or persons who organized or sponsored such gathering.

c. All persons attending such gatherings who engage in any activity resulting in the public nuisance as defined pursuant to subsection 16-27.2.

In lieu of issuing a fine(s), a police officer may issue a written warning if the response to the complaint occurs prior to 10:00 PM.
(Ord. 2012 c. 8 § 1)

16-27.5 Liability for a Second or Subsequent Response to a Gathering Constituting a Public Nuisance.

If the police department is required to respond to a gathering constituting a public nuisance pursuant to subsection 16-27.2 more than once in any one (1) year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below.

a. The person or persons residing on or otherwise in control of the premises where such gathering took place whether present or not.

b. The person or persons who organized or sponsored such gathering.

c. All persons attending such gathering who engage in any activity resulting in a public nuisance pursuant to subsection 16-27.2.

d. The person, persons or business entity which at the time of the gathering owned the premises where the gathering constituting the public nuisance pursuant to subsection 16-27.2 occurred, provided that notice of the first and subsequent responses has been mailed to the property owner of the premises as set forth herein and the gathering occurs at least fourteen (14) days after the mailing of the first notice. The property owner of the premises shall not be held responsible for any violation and penalties if the property owner is employing reasonable efforts to cooperate with the police department or other local officials. "Reasonable efforts" shall include but not be limited to the following: notifying the Commissioner or his designee in writing of the owner's willingness to cooperate with the police or other local officials; returning all telephonic and written inquiries from the police department or other local officials in a timely manner; retention of a security service or a police detail; issuance of written warning(s) to the occupants of the owner's intention to seek eviction for further public nuisances; and, the inclusion of a security rider in a lease agreement. The property owner of the premises shall not be held responsible for any violation and penalties if the property owner is actively pursuing

eviction from the premises of a tenant who controlled, organized, sponsored or attended the gathering. The one year time period for violations for a premises shall pertain only to the same residents occupying the premises who have had prior violation(s). New residents shall start a new time cycle of one (1) year. (Ord. 2012 c. 8 § 1)

16-27.6 Enforcement.

The provisions of CBC 16-27.4 and 16-27.5 may be enforced in accordance with the noncriminal disposition process of M.G.L. c. 40 § 21D. The provisions of this section may also be enforced according to M.G.L. Chapter 40U as accepted by the City of Boston, also known as the "Green Ticket" law. The enforcing persons shall be any authorized law enforcement officer of the Boston Police Department. A fine of one hundred dollars (\$100.00) for the first response shall be imposed to such person(s) cited; and, a fine of three hundred dollars (\$300.00) for the second and subsequent response(s) shall be imposed to such person or persons cited.

Such person(s) or a business entity cited pursuant to these provisions shall have fourteen (14) days to request a hearing to contest violations of these sections.

The provisions of this section are enforceable without reference to the provisions of CBC 16-26.6, disturbing the peace, and without reference to the fact that the police officer issuing a citation has not

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obtained a scientific noise measurement prior to issuing the citation. No such scientific noise measurement is required under the provisions of this section and the lack of a noise measurement shall not constitute a defense.

(Ord. 2012 c. 8 § 1)

16-27.7 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2012 c. 8 § 1)

16-28 JITNEY LICENSES.

16-28.1 Requirement.

No person, firm or corporation shall, in the City of Boston, operate any motor vehicle upon any public way, for the carriage of passengers for hire, in such a manner as to afford a means of transportation similar to that afforded by a railway company, by indiscriminately receiving and discharging passengers along the route on which the vehicle is operated or may be running, or for transporting passengers for hire as a business between fixed and regular termini, without first obtaining a license therefor from the City Council, and unless such license is in force according to the provisions of and subject to this and the following subsections. Such license shall be subject to revocation at any time by order of the City Council. Whenever the word "licensee" is used in this and the following subsections, it shall mean the person, firm or corporation licensed under this subsection.

(CBC 1975 Ord. T14 § 356)

16-28.2 Publication and Notice.

No person shall prosecute a petition to the City Council for a license under Section 1 of Chapter 159A of the General Laws unless at his own expense he has

caused to be published, in a newspaper of general circulation published in the City, at least seven (7) days before the public hearing to be held by the proper committee of the City Council, a notice of the time and place of such hearing, nor unless at his own expense he has also sent by registered mail not less than seven (7) days before such hearing a copy of such notice to the Police Commissioner, the Metropolitan Transit Authority, and such persons as shall file with the Clerk of Committees a written request for noticed under this subsection.

(CBC 1975 Ord. T14 § 357; Ord. 1991 c. 5 § 39)

16-28.3 Route.

No licensee shall so operate any such motor vehicle except between such termini and over such route and with such stopping places as shall be specified by the City Council in the license granted under the provisions of Subsection 16-28.1, and except in case of emergency, the licensee shall not deviate from the specifications of said license without the approval of the City Council.

(CBC 1975 Ord. T14 § 358)

16-28.4 Fare.

No licensee shall charge, demand, collect or receive a greater, or less, or different compensation for the transportation of passengers or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in the license granted by the City Council.

(CBC 1975 Ord. T14 § 359)

16-28.5 Information to Passengers.

No such motor vehicle shall be used or operated without a printed sign thereon stating the termini of the route, the fare to be charged, and the license number, which sign shall be so printed and attached to the motor vehicle as to be plainly visible to persons on the street, or without a printed sign thereon showing the schedule of service filed and in effect at the time, which sign shall be so printed and attached to the said motor vehicle as to be plainly visible to passengers boarding such motor vehicle.

(CBC 1975 Ord. T14 § 360)

16-28.6 Number of Passengers.

The license issued for such motor vehicle shall designate the number of passengers, exclusive of the operator, the licensee is authorized to carry in said vehicle, and no person driving or in charge of said vehicle shall take on or suffer or permit any more persons to ride or to be carried thereon at any one time than the number designated in the license, or permit any person to stand inside or to stand or sit upon any running board, steps, fender, dash or hood thereof, or permit any person to ride on such motor vehicle outside the body thereof; provided, however, that in addition to the number of passengers which said motor vehicle by the terms of its license is permitted to carry, children under seven (7) years of age may be carried therein, in arms, or seated on the laps of adult persons accompanying them, but no passenger with a child in arms or seated on the lap shall be permitted on any front seat of the vehicle. (CBC 1975 Ord. T14 § 361)

16-28.7 Operation.

The schedule of operation filed by the licensee shall provide for the regular operation of a motor vehicle between the termini and over the route designated in the license. The licensee shall regularly operate a motor vehicle in substantial accordance with the schedule of operation filed and in effect at the time, except in cases of accident, breakdown, or other controlling emergency, shall operate such motor vehicle to the terminus of the route before turning around, and shall not operate nor permit to be operated any such motor vehicle off or away from the route stated and fixed in the license for the operation of such motor vehicle except in case of controlling emergency. Nothing herein shall be construed to prohibit the operation, in addition to the service described in the schedule on file and in effect at the time, of special or extra trips over said route and between said termini during certain hours or on special occasions. (CBC 1975 Ord. T 14 § 362)

16-28.8 Carriage of Passengers.

No person operating any motor vehicle so licensed shall refuse to carry any person offering himself or herself at any regular stopping place for

carriage, unless the seats of such vehicle are fully occupied, or unless such person is in an intoxicated condition, or conducting himself in a boisterous or disorderly manner, or is using profane language. (CBC 1975 Ord. T14 § 363)

16-28.9 Lighting, Etc.

No motor vehicle so licensed shall be operated from one half hour after sunset till one half hour before sunrise, with the top and curtain of said vehicle up, or while said vehicle is otherwise enclosed, unless there be sufficient light provided to adequately light the whole of the interior of said vehicle; and all motor vehicles so licensed with a seating capacity of more than seven (7) passengers shall come to a full stop immediately before crossing the tracks of any railroad at grade. (CBC 1975 Ord. T14 § 364)

16-28.10 Conduct of Operators.

No person operating any motor vehicle so licensed shall collect fares, make change or take on or discharge passengers while such vehicle is in motion; nor shall he have a lighted cigarette, cigar or pipe in his possession while any passenger is being carried therein, nor drink any intoxicating beverage or use morphine, cocaine, opium or other harmful drug of any kind, or be under the influence thereof while engaged in operating such vehicle. (CBC 1975 Ord. T14 § 365)

16-29 OPEN-AIR THEATERS.**16-29.1 Open-Air Projection.**

No person shall project a motion picture upon any screen in the open air on any estate in the City to which admission is obtained upon the payment of money or the delivery of any valuable thing or by a ticket or voucher obtained for money or any valuable thing if such screen is open to view from a public or private way or an adjacent estate or from any part of a building or other structure in the vicinity. [Enforcement preliminary enjoined. **Northeast Theatre, Inc. v. McNamara**, U.S.D.C. of Mass. #72-1558-F] (CBC 1975 Ord. T14 § 366)

16-30 ABANDONMENT OF AUTOMOBILES.

16-30.1 Abandoned, Unregistered, or Uninsured Vehicles.

a. *Abandoned cars or automotive parts prohibited.* No person shall place an automobile or any automobile parts upon public or private land for the purpose of abandonment.

b. *Unregistered and/or uninsured vehicles.*

1. No person shall place, store, or keep more than one (1) unregistered automobile, truck, trailer, moped, and/or motorcycle that is required to be registered under the laws or regulations of the Commonwealth of Massachusetts, including but not limited to M.G.L. c. 90, upon public or private land zoned for residential purposes of six (6) or fewer residential units.

2. No person shall place, store, or keep more than one (1) uninsured automobile, truck, trailer, moped, and/or motorcycle that is required to be insured under the laws or regulations of the Commonwealth of Massachusetts, including but not limited to M.G.L. c. 90, upon public or private land zoned for residential purposes of six (6) or fewer residential units.

3. This section shall not apply to vehicles stored within a fully-enclosed building or to vehicles stored, parked, or displayed on property duly licensed in accordance with M.G.L. c. 140 ss. 57 through 69.

c. *Penalties.*

1. The first violation of this CBC section 16-30.1 in any calendar year shall be issued a warning with the instructions to remediate the violation by registering, insuring, or removing the motor vehicle in violation within ten (10) business days of the issuance of the violation.

2. A violation of CBC 16-30.1 shall be subject to a fine of three hundred (\$300.00) dollars. Each week that a violation remains uncorrected shall be a separate and distinct violation. Any fines that remain unpaid for more than twelve (12) months may become liens against the real estate at which the violation(s) occurred.

3. The provisions of M.G.L. c. 40, s. 21D may be used to enforce these sections.

d. *Enforcement and regulatory authority.* The Commissioner of the Inspectional Services Department, the Commissioner of the Boston Police Department, and the Commissioner of the Boston Transportation Department shall have the authority to enforce these sections and to promulgate rules and regulations necessary to implement and enforce these sections.

e. *Applicability.* If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy, then the provisions of these sections shall control.

f. *Severability.* If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect. (CBC 1975 Ord. T14 § 367; Ord. 2006 c. 8 § 1)

16-31 RODENT AND INSECT PREVENTION MEASURES AT CONSTRUCTION SITES.

In the City of Boston, no building permit shall be issued for renovation, conversion, or new construction until the applicant shows evidence the premises have been treated for, or are free from insects and rodents in compliance with the State Sanitary Code, 105 CMR, Section 410.550. The applicant shall be held responsible for corrective measures should his construction, renovation, or conversion work cause infestation to immediate abutters.

(Ord. 1982 c. 38 § 1)

Cross-reference:

Section 17-10.

16-32 FINES.

16-32.1 Generally.

Any person violating any provision of subsections 16-9.1, 16-12.8, 16-12.9, shall, unless

otherwise provided in this Chapter, be punished by a fine not exceeding fifty (\$50.00) dollars for each offense for a violation of any provision of this Chapter. Any person violating subsection 16-2.3 shall be punished by a fine of two hundred (\$200.00) dollars. Any person violating any other provision of this Chapter or Chapter XVII or Chapter XVIII shall be punished by a fine not exceeding twenty (\$20.00) dollars for such offense, and not only the person actually doing the prohibited thing, but also his employer and every other person concerned in so doing shall be punished by such fine.

Each day or part thereof of violation of any provision of any section of this Chapter, whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense.
(CBC 1975 Ord. T14 § 368; Ord. 1982 c. 23 s 2; Ord. 1984 c. 22; Ord. 1988 c. 15 § 2A, 3; Ord. 1994 c. 2 § 1; Ord. 2007 c. 7 § 2; Ord. 2008 c. 3)

16-32.2 Drinking of Alcoholic Beverages in Public, Fine.

Any person violating any provision of subsection 16-12.28 shall be punished by a fine not exceeding two hundred (\$200.00) dollars.
(CBC 1975 Ord. T14 § 368A, Ord. 1982 c. 23 § 3)

16-32.3 Alternative Noncriminal Disposition of Violations of Subsection 16-1.9, 16-1.9B, 16-1.9E, 16-12.7, and 16-32.4.

Subsections 16-1.9, 16-1.9B, 16-1.9E and 16-12.7 shall be enforced by the Commissioner of Health and Hospitals and his authorized agents, by the Commissioner of Housing Inspection and his authorized agents, by all Police Officers, by all special Police Officers including parking meter supervisors, so called, appointed under the provisions of Chapter 282 of the Acts of 1898, as amended, and by the Dog Officer appointed under Section 151 of Chapter 140 of the General Laws or the domestic charitable corporation from time to time performing by contract the duties of Dog Officer in accordance with said Section 151, and by the authorized agents of such Dog Officer or such domestic charitable corporation and the Animal Control Unit of the Property Management Department. If any officer empowered to enforce

subsections 16-1.9, 16-1.9E and 16-12.7 takes cognizance of a violation thereof, he may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the Clerk of the District Court having jurisdiction at any time during office hours, not later than twenty-one (21) days after the date of such violation. Such notice shall be in triplicate and shall contain the name and address of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the officer, and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received. The officer shall if possible deliver to the offender at the time and place of the violation a copy of said notice. Whenever it is not possible to deliver a copy of said notice to the offender at the time and place of the violation said copy shall be mailed or delivered by the officer, or by his Commanding Officer, or by the Head of his Department, or by any person authorized by such Commanding Officer or Head of Department, to the offender's last known address, or to the address of the owner of the dog as it may appear on the collar of such dog or as it may appear on the application for a license for such dog in the records of the Police Commissioner, within five (5) days thereof, exclusive of Saturdays, Sundays, and legal holidays. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the officer or person so mailing such notice that it has been mailed in accordance with this subsection shall be prima facie evidence thereof. At or before the completion of each tour of duty the officer shall give to his Commanding Officer or Department Head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. The Commanding Officer or Department Head shall retain and safely preserve one of the copies and shall, at a time not later than the next court day after such delivery or mailing, deliver another of such copies to the Clerk of the Court before whom the offender has been notified to appear.

Any person notified to appear before the Clerk of a District Court as hereinbefore provided may appear before such Clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mailing to such Clerk, with the notice, the sum of fifty (\$50.00) dollars, such payment

to be made only by postal note, money order, or check. Payment to such Clerk of such sum shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the Clerk of a District Court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person so notified to appear before the Clerk of a District Court fails to appear and pay the fine provided hereunder or, having appeared, desires not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the Clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint and follow the procedure established for violations of these Ordinances.

As used in this section the term "District Court" shall include, with the limits of its jurisdiction, the Boston Municipal Court.

The notice to appear provided herein shall be printed in such form as may be satisfactory to the Chief Justice of the Boston Municipal Court and to the Administrative Committee of the District Courts as created by Section 43A of Chapter 218 of the General Laws.

The provisions of this subsection are severable, and if any of the provisions of this subsection shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

(CBC 1975 Ord. T14 § 369; Ord. 1979 c. 35; Ord. 1996 c. 8 § 3-5; Ord. 2000 c. 4 §§ 3-5; Ord. 2004 c. 4 § 2)

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

16-32.4 Enforcement of Certain Sections.

City of Boston, Ordinances, subsection 16-1.8 through subsection 16-1.20A, subsection 16-1.24; subsection 16-1.26; Section 16-4A; Section 16-8A; subsection 16-12.2A; subsection 16-12.5 through subsection 16-12.23; and subsection 16-22.1 through subsection 16-23.4 may be enforced in accordance with the provisions of G.L. Chapter 40, Section 21D as inserted by St. 1977, Chapter 401.

(Ord. 1977 c.16; Ord. 1986 c. 1 § 1; Ord. 1986 c. 8 § 1; Ord. 1986 c. 10 § 1; Ord. 1988 c. 15 § 6; Ord. 1988 c. 17 § 2; Ord. 2003 c. 19 § 3)

16-32.5 Enforcement in Accordance with Massachusetts General Law.

Any person taking cognizance of a violation of the sections of this Code set forth in subsection 16-32.4 hereof which he is empowered to enforce by statute, ordinance, or by appointment as special Police Officer may enforce said ordinances in accordance with G.L. Chapter 40, Section 21D as inserted by St. 1977, Chapter 401.

(Ord. 1977 c. 16 [371])

16-32.6 Violations; Fine Established.

Any person violating any provision of the sections enumerated in subsection 16-32.4 hereof shall be punished by a fine of ten (\$10.00) dollars for each offense except that the following so-enumerated sections shall carry the following penalties for violations thereof; and not only the person actually doing the prohibited thing, but also his employer and every other person concerned in so doing shall be punished by such fine.

Subsection 16-1.14	Three hundred (\$300.00) dollars;
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Subsection 16-1.17	Fifty (\$50.00) dollars;
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Subsection 16-1.19A For the first violation in any twelve (12) month period: fifty (\$50.00) dollars, for the second violation within twelve months of a prior violation: one hundred (\$100.00) dollars, and, for the third or subsequent violation within twelve (12) months of a prior violation: two hundred (\$200.00) dollars;

Subsection 16-2.5 One hundred (\$100.00) dollars;

Subsection 16-2.7 Two hundred (\$200.00) dollars;

Subsection 16-4A For the first violation in any twelve (12) month period: fifty (\$50.00) dollars, for the second or consequent violation: two hundred (\$200.00) dollars;

Subsection 16-8.1 Three hundred (\$300.00) dollars;

Subsection 16-12.2A Fifty (\$50.00) dollars, except that for the second violation within twelve (12) months of a prior violation: one hundred (\$100.00) dollars, and, for the third or subsequent violation within twelve (12) months of a prior violation: two hundred (\$200.00) dollars;

Subsection 16-12.7 Fifteen (\$15.00) dollars;

Subsection 16-12.8 Twenty-five (\$25.00) dollars;

Subsection 16-12.14 Fifty (\$50.00) dollars;

Subsection 16-12.19 Fifteen (\$15.00) dollars;

Subsection 16-23.1 Three hundred (\$300.00) dollars;

Subsection 16-23.3 Three hundred (\$300.00) dollars.

Any person under the age of thirty (30) who violates any of the foregoing provisions may, on application to, and approval by, the Judge hearing a complaint with respect to such violation, or any Judge of the Court to which the notice under G.L. Chapter 40, Section 21D is returnable (as the case may be) in lieu of paying such fine, perform such public service reasonably related to the violation as the Judge shall require and upon completion of such public work, the fine shall be reduced by five (\$5.00) dollars for each such hour of service, to the extent of such fine. (Ord. 1977 c. 16; Ord. 1986 c. 1 § 4; Ord. 1986 c. 8 § 1; Ord. 1986 c. 10 § 2; Ord. 1988 c. 15 §§ 6, 7; Ord. 1988 c. 17 § 3; Ord. 1994 c. 2 § 1; Ord. 1994 c. 12 § 3; Ord. 1999 c. 6 § 1; Ord. 2003 c. 19 § 3; Ord. 2007 c. 7 § 3; Ord. 2008 c. 3; Ord. 2008 c. 4)

16-32.7 Enforcement of Certain Environmental Protection Ordinances.

The Commissioner of Inspectional Services and any designee of said Commissioner, be, and hereby is, authorized pursuant to Chapter 40, Section 21D of the General Laws to enforce (in addition to those heretofore authorized to enforce):

All of the sections of the ordinances cited in subsection 16-32.4; Boston Police Rule 401 (CBC St. Title 14, s 164); subsection 16-12.3; subsections 16-33.2 and 16-33.7. (Ord. 1983 c. 22 § 1; Ord. 1983 c. 24 § 1)

16-33 SIGNS, AWNINGS, ETC.**16-33.1 Definitions.**

As used in this section:

Sign shall mean any sign, structure, device, light, letter, word, clock, model, banner, pennant, insignia, trade flag, or representation designed to be seen from outside a building and capable of, or, in fact, advertising or announcing a use conducted, or goods, products, services, or facilities, except legal displays of flags, emblems or insignia of our nation or any political subdivision thereof, and except the following if not projecting over a parkway, other way under the control of the parks and recreation commission, or public way:

- a. Temporary for sale or for rent signs located on the property advertised;
- b. Temporary display posters without independent structural support, in connection with political campaigns or with noncommercial civic, health, safety or welfare campaigns, unless not removed within thirty (30) days following the conclusion of the campaign;
- c. Temporary displays of a patriotic, religious, charitable or civic nature;
- d. Historical or scenic markers approved by a recognized historical or conservation agency;
- e. Signs not prohibited by any other code or ordinance that identify only the occupant of a house or the name and business of a professional person.
(Ord. 1982 c. 5 s 2)

16-33.2 Issuance of Number by Appropriate Department.

No owner or tenant of an estate within the City shall, in view of a parkway, other way under the control of the Parks and Recreation Commission or public way, erect, maintain or suffer to remain any sign, awning, canopy or marquee upon such estate unless such sign, awning, canopy or marquee bears a currently valid distinctive number issued with respect to such sign, awning, canopy or marquee by the Department empowered by this ordinance.
(Ord. 1982 c. 5 s 2) Penalty, see subsection 16-33.7

16-33.3 Inspectional Services Department.

The Inspectional Services Department shall issue distinctive numbers to all signs, awnings, canopies or marquees complying with the applicable provisions of the Boston Zoning Code, subject to the allowances and exceptions therein contained, that do not project over a parkway, other way under the control of the Parks and Recreation Commission or public way. The Commissioner of Inspectional Services shall promulgate such regulations as reasonably necessary to ensure compliance with this ordinance including, but not limited to, number size requirements.
(Ord. 1982 c. 5 s 2)

16-33.4 Public Works Department.

The Public Works Department shall issue distinctive numbers upon payment of the permit fee required by Chapter XVIII to all signs, awnings, canopies or marquees projecting over a public way and complying with the applicable provisions of the Boston Zoning Code, subject to the allowances and exceptions therein contained. The Commissioner of Public Works shall promulgate such regulations as reasonably necessary to ensure compliance with this ordinance including, but not limited to, number size requirements.
(Ord. 1982 c. 5 s 2)

16-33.5 Parks and Recreation Commission.

The Parks and Recreation Commission shall issue distinctive numbers upon payment of the permit fee required by Chapter XVIII to all signs, awnings, canopies or marquees projecting over a parkway or other way under its control and complying with the applicable provisions of the Boston Zoning Code, subject to the allowances and exceptions therein contained. The Commission shall promulgate such regulations as reasonably necessary to ensure compliance with this ordinance including, but not limited to, number size requirements.
(Ord. 1982 c. 5 s 2)

16-33.6 Enforcement.

This section may be enforced in accordance with the provisions of G.L. Chapter 40, Section 21D as inserted by St. 1977, Chapter 401.
(Ord. 1982 c. 5 s 2)

16-33.7 Fine.

Any owner or tenant of an estate within the city who erects, maintains or suffers to remain any sign, awning, canopy or marquee upon such estate in violation of this ordinance shall be subject to a fine of twenty-five (\$25.00) dollars for each day such sign shall remain in violation.

(Ord. 1982 c. 5 s 2)

16-34 UNLAWFUL TO TAKE REPRISAL AGAINST ANY INDIVIDUAL WHO TESTIFIES BEFORE THE BOSTON CITY COUNCIL.**16-34.1 Reprisal Action Against Person Who Testifies Before City Council Unlawful.**

It shall be unlawful for any individual employed by, under contract to, or any agent of the City of Boston, either directly or indirectly, to take or threaten to take, direct others to take, recommend, or approve any personal action against any individual or employee as reprisal for making a complaint, testifying before, or disclosing information to a Committee of the City Council, unless the complaint was made or the information disclosed or testimony given was given with willful disregard for its truth or falsity.

(Ord. 1989 c. 8 § 1)

16-34.2 Complaint of Reprisal; Action by Chair of Committee.

Upon information and belief that retaliatory action was unlawfully taken by an employee, contractor, or any agent of the City of Boston against an individual who makes a legitimate complaint, testifies before, or discloses information relative to the activities described hereinabove to a Committee of the City Council, the Chair of said Committee may upon information and belief that the complaint is bonafide, have issued a summons on said employee, contractor, or agent of the City and shall convene a Committee hearing to investigate such complaint further.

(Ord. 1989 c. 8 § 2)

16-34.3 Report to City Council of Reprisal; City Council May Impose Disciplinary Action.

Upon a finding that an individual employed by, under contract to, or an agent of the City of Boston has engaged in reprisal against an individual who makes a complaint, testifies before, or discloses information to a committee of the City Council, the Chair of the City Council Committee shall issue a finding and shall report such finding to the full City Council, a copy of which shall be forwarded to the Mayor for additional disciplinary action which may result in suspension or termination of said individual, or termination of said individual's contract with the city.

(Ord. 1989 c 8 § 3)

16-34.4 Definition.

For purposes of defining "reprisal activity," any extraordinary individual or municipal activity against an individual who testifies before a Committee of the City Council, occurring within six (6) months of said testimony before said Committee, shall create a rebuttable presumption that such activity is a reprisal against the individual so testifying.

(Ord. 1989 c. 7 § 4)

16-34.5 Severability.

This section is severable. The ruling of a court of competent jurisdiction that any one part may be invalid shall not affect the remainder of this section.

(Ord. 1989 c. 8 § 5)

16-35 WORKPLACE SMOKING POLLUTION CONTROL ORDINANCE.**16-35.1 Legislative Intent.**

The use of tobacco for smoking purposes is found to be increasingly dangerous and life-threatening, not only to the person smoking, but also to the nonsmoking person who is required to breathe air contaminated by environmental tobacco smoke. The most pervasive intrusion of the nonsmokers' right to a healthy, unpolluted air space is the uncontrolled

smoking in the workplace. The Boston City Council's intent, by the passage of this section, is to protect the health and welfare of the nonsmoker by regulating smoking and the discomforting effect it creates in the confined environment of the workplace.

(Ord. 1993 c. 3)

16-35.2 Title.

This section shall be known as the Boston Workplace Smoking Pollution Control Ordinance.

(Ord. 1993 c. 3)

16-35.3 Purpose.

Because the smoking of burning tobacco or any other weed or plant is extremely dangerous to health and is a cause of material annoyance and discomfort to those employees who are exposed to it and have, of economic necessity, to work in the confines of a workplace, the City Council hereby declares that the purposes of this act are (1) to protect the public health and welfare by regulating smoking in the workplace, and (2) to minimize the toxic effects of smoking in the workplace by requiring an employer to adopt a policy that reasonably accommodates insofar as possible, the preferences of nonsmokers and smokers.

If an employer allows employees to smoke in the workplace, the section requires (1) that the employer make reasonable accommodations for the preferences of both nonsmoking and smoking employees, and; (2) that the employer must give particular preference to employees who as a result of either a cardiovascular illness, pulmonary illness, or any other physical condition affecting the eyes, nose and throat, are sensitive to the discomforts of tobacco smoke, and; (3) that the employer use without incurring additional expense to the extent possible existing architectural design and ventilation systems to separate designated smoking areas from designated nonsmoking areas, and; (4) that all nonsmoking areas to be designated and conspicuously marked with signs, and; (5) that the employer be prohibited from terminating without due cause or discriminating against any employee because the employee exercised his or her right under this act.

(Ord. 1993 c. 3)

16-35.4 Definitions.

As used in this section:

a. *City Council* shall mean the law-making body of the community of Boston in the Commonwealth of Massachusetts;

b. *Board of Health* shall mean the municipal department, division, unit, or body of the municipality charged with regulating and/or enforcing the health laws or regulations in the Massachusetts community of Boston;

c. *Person* shall mean any individual person, firm, partnership, association, corporation, company, organization, or legal entity of any kind;

d. *Employer* shall mean any person who employs the service of an individual person;

e. *Employee* shall mean any person who is employed by any employer in consideration for direct or indirect monetary wage or profit;

f. *Workplace* shall mean any enclosed area of a structure or portion thereof intended for occupancy by any private or public business entities which will provide primarily, but not exclusively, clerical, professional or business services of the business entity, or which will provide primarily, but not exclusively, clerical, professional, or business services to other business entities or to the public, at that location. The workplace includes, but is not limited to, office spaces or work spaces in office buildings, office spaces or work spaces in all municipal office buildings, office spaces or work spaces in all public buildings, office spaces or work spaces in all Federal office buildings where other than Federal employees are employed and the Federal regulations restricting smoking in Federal buildings are not applied, medical office waiting rooms or areas and other medical treatment facilities, all manufacturing plant office spaces or work spaces not under the control of the Federal government regulations restricting smoking in Federal buildings or the General Service Administration (GSA) regulations restricting smoking in Federal buildings;

g. *Office space or office spaces or work space or work spaces* shall mean any area occupied by an employee during the course of his or her employment,

including, but not limited to, hallways, waiting areas, restrooms, lounges, eating areas, as well as enclosed motor vehicles, ships, boats, and airplanes;

h. *Smoking or to smoke or smoke* shall mean the inhaling, exhaling, burning or carrying of any lighted cigarette; cigar, pipe, or other article, or paraphernalia for tobacco or any other weed or plant, and;

i. *Enclosed* shall mean an area, other than a public lobby, which is closed in by a roof and four walls or sides or partitions, either complete or partial, with appropriate openings for ingress and egress. (Ord. 1993 c. 3)

16-35.5 Regulation of Smoking in the Workplace.

a. Each employer who operates a workplace in Boston must implement, maintain, and conspicuously post, for all employees to see, a written smoking policy which will contain, at a minimum, the following provisions and requirements:

1. Any employee may object to his or her employer about the smoke hazard or discomfort in his or her workplace. Using existing means of ventilation or separation or partition of the work space, the employer must attempt expeditiously, within thirty (30) days of the initial date of objection, to reach a reasonable accommodation, insofar as possible, between the preferences of all the nonsmoking and smoking employees. However, an employer is not required by this section to make any expenditures or structural changes to accommodate the preferences of nonsmoking or smoking employees.

2. Where the employer prohibits smoking in any portion of the workplace, the area(s) in which smoking is prohibited must be clearly and conspicuously marked with signs.

b. The employer's smoking policy must be announced to all employees and posted conspicuously in all workplaces under the employer's jurisdiction in Boston.

c. Anyone who becomes an employer in Boston after the passage of this section must, within three (3)

months of becoming an employer, adopt, implement, maintain, and conspicuously post for all employees to see, a written smoking policy with all the provisions mentioned herein.

(Ord. 1993 c. 3) Penalty, see subsection 16-35.7

16-35.6 Where Smoking Not Regulated.

This section is not intended to regulate smoking in the following places and under the following conditions within Boston:

a. A private home which may serve as a workplace;

b. Any office space leased or rented by a sole independent contractor for his or her own use; or,

c. A business used exclusively for the sale of tobacco products;

d. Provided further that no employer or agent of any employer shall require as a condition of employment that any employee or prospective employee refrain from smoking or using tobacco products outside the course of his or her employment or otherwise discriminate against any individual with respect to his or her compensation terms, conditions, or privileges of employment for smoking or using tobacco products outside the course of his or her employment. Provided, however, that any nonprofit organization or corporation whose primary purpose is to discourage use of tobacco products by the general public shall be exempt from the provisions of this statute; and provided that employers within the Commonwealth which are regulated under M.G.L. Chapter 22, Section 9A; Chapter 26, Section 2; Chapter 31, Section 64; or Chapter 41, Section 101A shall be exempt from the provisions of this statute.

In any civil action alleging a violation of this provision, the court may:

1. Award punitive damages to a prevailing employee or prospective employee in addition to any award of actual damages;

2. Award reasonable attorneys' fees and costs to a prevailing employee or prospective employee; and

3. Afford injunctive relief against any employer who commits or proposes to commit a violation of this provision.

e. City Hall cafeterias.
(Ord. 1993 c. 3)

16-35.7 Penalties and Enforcement.

a. The Boston Board of Health, having received a written and signed letter of complaint from an employee citing a violation of this section, must enforce, within thirty (30) days, the entire section against violations by either of the following actions:

1. Serving written notice to comply to an employer, with a copy of the notice to the complainant, requiring the employer to correct, within thirty (30) days, any violation of any section of this subsection. The employer must also be sent a copy of this section at the time notice is served. Upon receiving a second signed complaint at the Boston Board of Health for the same or continued violation by the same employer, and failing all other attempts by the Boston Board of Health to expeditiously, and within thirty (30) days, mediate the complaint, the complaint must be resolved by;

2. Calling upon the attorney for Boston to maintain promptly an action for injunction to enforce the provisions of this act, to cause the correction of such violation of section, and for assessment and recovery of a civil penalty for such violation;

b. An employer who violates this act shall be liable for a civil penalty, not to be less than fifty (\$50.00) dollars or exceed three hundred (\$300.00) dollars, which penalty shall be assessed and recovered in a civil action brought by the attorney for Boston in any court of competent jurisdiction.

c. In undertaking the enforcement of this section, the City of Boston is assuming an undertaking only to promote the health and general welfare of the working public. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

d. Any revenues accumulated from violations of this section should be used only to increase the public awareness of this section or for public health programs related to this issue and not reverted to the City's General Fund.

e. If any provision of this section is invalid or unenforceable by a court of competent jurisdiction, the other provisions of the act shall not be affected thereby, but shall continue in full force and effect.
(Ord. 1993 c. 3)

16-36 CIGARETTE SALES BY VENDING MACHINES RESTRICTED.

16-36.1 Regulations.

All sales of cigarettes by vending machines within the City of Boston shall be prohibited unless: (1) The vending machine is located within the immediate vicinity, plain view and control of a responsible employee, so that all purchases are observable and controllable as if cigarettes were sold over the counter; and (2) The vending machine must not be located in a coatroom, restroom, unmonitored hallway, outer waiting area, or similar unmonitored area and must be inaccessible to the public when the establishment is closed; and (3) The vending machine is equipped with a lock-out device approved by the Board of Health. Said device shall lock-out sales from vending machines unless an employee releases the locking mechanism. The release mechanism must not allow continuous operation of the vending machine and must not be accessible to customers. Vending machines shall be posted with a sign stating that the machine is equipped with a lock-out device and identifying the person(s) to contact to purchase cigarettes from the machine; and (4) All cigarette vending machines must display a conspicuous sign stating that it is illegal for minors to purchase cigarettes; and (5) or, unless the use of the premises is restricted to persons over the age of eighteen (18).
(Ord. 1993 c. 9) Penalty, see subsection 16-36.3

16-36.2 Enforcement.

The Board of Health or its enforcement officer(s) shall enforce these regulations.
(Ord. 1993 c. 9)

16-36.3 Violations and Penalties.

(1) Any person or corporate entity selling tobacco to any person under age eighteen (18) shall be punished by a fine of not less than one hundred (\$100.00) dollars for the first offense, not less than two hundred (\$200.00) dollars for the second offense, and not less than three hundred (\$300.00) dollars for any third and subsequent offense; and (2) Any person or corporate entity selling tobacco to any person under age eighteen (18) three (3) times within twelve (12) months shall be cause, after public hearing, for the suspension of the license to sell tobacco. All tobacco must be removed from the premises when said license is suspended. Licenses suspended cannot be reinstated for one (1) calendar year following the date of removal.

(Ord. 1993 c. 9)

16-36.4 Severability.

If any of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

(Ord. 1993 c. 9)

16-37 NON-EMERGENCY REPAIR OF VEHICLES.**16-37.1 Prohibition.**

a. No person shall in or on any fire lane, public way, sidewalk or other public land, nor on any land used for retail purposes not having a main use and occupancy of repair and/or servicing of motor vehicles (other than upon land leased by such person,) install or remove any motor vehicle part or accessory or make any repair or servicing of a motor vehicle, nor, put, place or, suffer to remain on such land, any motor vehicle part, any fluid other than water used or intended for use in a motor vehicle, or any container or packaging for or from such part or fluid, provided that minor repairs of equipment required by law or essential to the operation of the vehicle not involving the draining of fluid nor the removal or installation of moving parts (other than a tire on a rim,) shall not be deemed a violation hereof.

b. No owner, lessee, or person in charge of property used for retail purposes not having a main use and occupancy of repair and/or servicing of motor vehicles shall permit, allow or suffer any person to violate this section thereon. Maintenance or repair of 1) vehicles owned or leased by persons lawfully residing on the property, or, 2) owned or leased by, and used in connection with, a trade or business lawfully conducted on the property, shall not be deemed a violation hereof.

(Ord. 1996 c. 2; Ord. 1996 c. 11) Penalty, see subsection 16-37.2

16-37.2 Violation.

The penalty for violation of subsection 16-37.1 of the Code shall be two hundred fifty (\$250.00) dollars which may be enforced criminally, or noncriminally as a part of the Environmental Ordinances.

(Ord. 1996 c. 2)

16-38 PLACEMENT AND MAINTENANCE OF NEWSRACKS.**16-38.1 Definitions.**

When used in this section the following terms shall have the following meanings:

Certificate holder means the holder of a Certificate of Compliance issued by the Commissioner in accordance with the provisions of this section.

Certificate of Compliance means the certificate issued by the Commissioner on a yearly basis to the certificate holder upon successful completion of the application process each year.

Commissioner means the Commissioner of Public Works of the City of Boston, or such person as said Commissioner may delegate.

Corral means a structure which allows for the appropriate placement of newsracks within designated high traffic areas.

Newsrack means any type of unmanned device for the vending or free distribution of newspapers, periodicals or printed material of whatever nature located in or on a public way.

Newsrack sticker means a sequentially numbered sticker issued by the Commissioner for placement on individual newsracks in accordance with the provisions of this section.

Operator means any natural person or other legal entity including, but not limited to, corporations, partnerships, joint ventures and the like who either own, operate or are otherwise in control of a newsrack located in or on a public way in the City of Boston.

Public way means any public highway, private way laid out under authority of statute, way dedicated to public use, or way under control of the park commissioner or other body having like power. (Ord. 2008 c. 9)

16-38.2 Certificate of Compliance.

a. *Requirement.* No person shall affix, erect, construct or maintain a newsrack in or on any part of a public way without first obtaining a yearly Certificate of Compliance from the Commissioner in accordance with the provisions of this section. Only one (1) annual Certificate of Compliance per publication shall be required.

b. *Application process.* Each operator of newsracks who intends to place newsracks in any part of the public way must complete a written application on a yearly basis on a form provided by the Commissioner.

c. *Application.* The application shall describe in detail the location of each newsrack and be accompanied by a sketch or photograph of each newsrack location showing compliance with the standards set forth in CBC 16-38.3(c) and indicating the distance, in feet, of the newsrack from curbs, crosswalks, fire hydrants, street lights, trash receptacles, traffic signal equipment, bike racks, and mail boxes within a twenty (20') foot radius of the newsrack. The application sketch or photograph must also demonstrate that the placement of the newsrack is

in compliance with the regulations of the State Architectural Access Board, 521 CMR, and will not reduce the clear space for the passage of pedestrians to less than four (4') feet. The application shall also include:

1. The name, address, telephone number, and email address, of the applicant who is the operator of the newsrack(s);

2. The name, address, telephone number and email address of a natural person (if different from the applicant) who the City may notify and/or contact at any time concerning the operator/applicant's newsrack(s);

3. A certificate of insurance naming the City of Boston as an additional insured in an amount approved by the Commissioner as sufficient to indemnify the City and hold it harmless from any and all claims or judgments for personal injury, including death, or property damage and from costs and expenses to which the City may be subjected or which it may suffer or incur by reason of the design, placement, installation, operation or maintenance of any of the applicant/operator's newsrack(s);

4. A signed statement holding the City harmless for any damage to the newsracks as the result of routine City maintenance, including but not limited to snowplowing and street cleaning, or as the result of reasonable enforcement of these provisions;

5. A signed statement indicating whether notice regarding newsracks may be sent by electronic mail.

d. *Issuance of Certificate of Compliance.* Each year, within thirty (30) days of the submission of a completed application, upon a finding that the applicant is in compliance with the provisions of the section, the Commissioner shall issue a Certificate of Compliance. Included with the Certificate of Compliance shall be an appropriate number of sequentially numbered newsrack stickers. Each sticker shall correspond with a specific newsrack, the location of which had been approved as part of the application process. Only those newsrack(s) that have been issued a newsrack sticker in conjunction with the issuance of a Certificate of Compliance shall be deemed

approved. The Commissioner shall approve proposed locations on a first come, first serve basis. No preference shall be given to operators who may have had newsracks in a particular location prior to the effective date of this section. No publication shall be approved for more than one (1) newsrack at any particular location.

e. *Denial of Certificate of Compliance.* If an application for a Certificate of Compliance is denied in whole or in part, the Commissioner shall state the specific reasons for denial. The Commissioner shall assist the applicant in determining reasonable alternative locations to those which were denied. Any applicant who has been denied a Certificate of Compliance may appeal such denial to the Public Improvement Commission (PIC) by submitting a written request for such a hearing to the Commissioner. Such hearing shall be heard at the next regularly scheduled hearing or within thirty (30) days. The PIC shall issue a decision within ten (10) days and any decision shall be subject to M.G.L. c. 30A.

f. *Fees for Certificate of Compliance.* The application fee for each yearly Certificate of Compliance shall be three hundred (\$300.00) dollars to cover the administrative costs of processing the application plus an annual fee of twenty-five (\$25.00) dollars per newsrack to cover the administrative costs of monitoring compliance with these provisions.

g. *Amending Certificate of Compliance.* If within the applicable year after the Commissioner has issued a Certificate of Compliance the certificate holder wishes to install additional newsracks, beyond those which have been approved under CBC 16-38.2(d), the certificate holder must submit an application to amend the Certificate of Compliance. Only the twenty-five (\$25.00) dollars per newsrack fee shall apply to such amendments.
(Ord. 2008 c. 9)

16-38.3 Installation.

a. *Stickers.* Each newsrack shall prominently display the newsrack sticker issued by the Commissioner pursuant to the provisions of CBC 16-38.2(d). The sticker must be adhered to the specifically designated newsrack.

b. *Standards.* Any newsrack placed in any part of the public way shall be:

1. Made of metal, plastic or an equivalent sturdy material approved by the Commissioner, with a clear plastic window through which the printed material is dispensed, and shall not be more than fifty (50") inches in height and not more than thirty-two (32") inches in length and width;

2. Sufficiently weighted and secure so as not to be easily moved or tipped over; and

3. Completely enclosed, with a self-closing door that is either self-latching or otherwise requires manual or mechanical release at each use.

c. *Placement.* Placement of any newsracks must be done in accordance with CBC 16-38.2(c) and (d) and 16-38.3(d), the regulations of the Architectural Access Board, 521 CMR, and subject to the following prohibitions. Newsracks shall be placed parallel to and not less than eighteen (18") inches nor more than twenty-four (24") inches from the edge of the curb. No newsrack shall be placed within one hundred fifty (150') feet of another newsrack containing the same newspaper or periodical unless approved by the Commissioner after a demonstration that the placement of two (2) such newsracks would not impair traffic, affect accessibility or otherwise create a hazardous situation. Newsracks placed near a building or structure must be placed parallel to and not more than six (6") inches from the wall and shall not be placed:

1. At any location whereby the clear space for pedestrian passage is reduced to less than four (4') feet;

2. Within five (5') feet of any marked or unmarked crosswalk;

3. Within five (5') feet of any fire hydrant, fire lane, fire call box, or other emergency facility;

4. Within five (5') feet of any traffic control signal or traffic sign;

5. Within five (5') feet of any mailbox, bicycle rack, City trash receptacle: telephone booth or stand;

6. Within five (5') feet of any part of a curb return of a curb ramp or driveway, or in the case of a curb ramp or driveway without a curb return, within five (5') feet of the point where the curb edgestone or edging begins a change in grade toward the driveway or ramp on each side thereof, or in the case of a termination of the curb, edgestone or edging without a change in grade or a turn, within five (5') feet of the point of the same terminates on each side of the ramp or driveway;

7. Within five (5') feet ahead or fifteen (15') feet to the rear of any designated bus stop, taxi stand, valet parking area, loading zone or fire lane; and

8. Which in any way protrudes onto a street or interferes or hinders city removal of snow, ice, and debris from the streets and sidewalks.

Should circumstances require relief from a placement provision set forth above, the Commissioner shall have the discretion to grant relief upon a sufficient demonstration of actual hardship by the certificate holder.

d. *Placement at Designated High Traffic Areas.* In the interest of maintaining safe, accessible and unobstructed pedestrian flow, the Commissioner may designate certain areas of the City as high pedestrian traffic areas. Freestanding newsracks shall not be allowed in such designated areas. The Commissioner shall determine the appropriate placement of newsracks, through the use of corrals or other similar devices as the Commissioner deems necessary. The Commissioner is authorized to establish high pedestrian traffic areas subject to the following requirements:

1. The Commissioner shall determine the location of the corrals or other similar devices consistent with the purpose and intent of this section based on the following criteria: (i) whether the area has a large amount of pedestrian traffic; (ii) whether limited space is available for freestanding newsracks;

and (iii) whether said designation is consistent with the goal of eliminating pedestrian congestion and enhancing pedestrian safety in the area.

2. Within five (5) days of designating a high pedestrian traffic area, the Commissioner shall send written notice by certified mail to all operators. The notice shall contain the following information: (i) the precise area being designated; (ii) the date the designated area regulations will go into effect, which shall be at least thirty (30) days after sending the notice; and (iii) the procedure for obtaining a slot in the area corral or other similar device.

Under no circumstances shall a corral or other similar device impede visibility of an operator's location contained therein when viewed from the front of such device. Under no circumstances shall the corral or other similar device impede visibility of an operator's location by more than fifty percent (50%) when viewed from the rear of the device.

The Commissioner shall approve high traffic area locations on a first come, first serve basis. No preference shall be given to operators who may have had newsracks in a particular location prior to the effective date of this section. No publication shall be approved for more than one (1) location at any particular high traffic area.

e. *Attachment to Property.* No operator shall chain or otherwise attach any newsrack to any other newsrack, tree, street light post, traffic signal of sign, or other city infrastructure in the public way.

f. *Groupings of Newsracks.* Newsracks may be grouped together side-by-side, provided that no group of newsracks extends beyond ten (10') feet along a curb, and a space of not less than five (5') feet separates each group of newsracks. Notwithstanding this permissible grouping, no newsrack may be grouped with any other newsrack unless such location has been approved pursuant to CBC 16-38.2(c) and (d).

g. *Advertising Prohibited.* It shall be unlawful for any person to use a newsrack for advertising or publicity purposes other than dealing with the display, sale or purchase of the publications dispensed therein. (Ord. 2008 c. 9)

16-38.4 Maintenance.

a. *Condition.* Each newsrack shall be maintained in a state of good repair and in a neat and clean condition, and free of accumulations of outdated printed materials, trash, rubbish, or debris.

b. *Service.* Each newsrack shall be regularly serviced so that:

1. It is kept reasonably free of graffiti;
2. It is kept reasonably free of chipped, faded, peeling and cracked paint or rust and corrosion;
3. The clear plastic window through which the printed material is dispensed is not broken and is kept reasonably free of tears, peeling or fading; and
4. The structural parts of the newsrack are not broken or unduly misshapen.
(Ord. 2008 c. 9)

16-38.5 Enforcement.

a. *Nonconforming Newsracks.* Any newsrack found not to be in compliance with this section shall be subject to the enforcement provisions contained herein.

b. *Enforcement.* The Commissioner shall enforce the provisions of this chapter and shall have the authority to issue regulations for the purpose of enforcement.

1. Upon a determination that a newsrack placed in any part of a public way is in violation of CBC 16-38.2(d) and the Commissioner has no record on file of a Certificate of Compliance for said newsrack, such newsrack shall be removed immediately and notice of such removal shall be sent within three (3) days, by certified mail, to the individual provided pursuant to CBC 16-38.2(c)(1) or (2). If the certificate holder has agreed, such notice shall be sent by electronic mail. If no such application or individual exists pursuant to CBC 16- 38.2(c)(1)

or (2), notice of such removal shall be sent within three days, by certified mail, to the operator. Such notice shall include:

- (a) The location of the newsrack and sticker, if any;
- (b) The date of the incident or other cause giving rise to the violation;
- (c) A brief and concise statement of the facts causing the violation; and
- (d) The location where the newsrack has been stored.

2. Upon a determination that a newsrack properly installed pursuant to this section is in violation of CBC 16-38.3 or 16-38.4, the Commissioner shall send, by certified mail, notice to the individual provided pursuant to CBC 16-38.2(c)(1) or (2). If the certificate holder has agreed, such notice shall be sent by electronic mail. Such notice shall include:

- (a) The newsrack sticker number and location;
- (b) The date of the incident or other cause giving rise to the violation;
- (c) A brief and concise statement of the facts causing the violation; and
- (d) A statement informing the certificate holder that at the expiration of ten (10) days from the date the notice is received the newsrack will be removed by the Commissioner, unless the violation is corrected.

3. Upon removal of any newsrack pursuant to CBC 16-38.5(b)(2)(d) the Commissioner shall send written notice, within ten (10) days to the individual provided pursuant to CBC 16-38.2(c)(1) or (2). If the certificate holder has agreed, such notice shall be sent by electronic mail, otherwise such notice shall be sent by certified mail.

4. Any person aggrieved by CBC 16-38.5(2) and/or (3) may appeal such action to the PIC by submitting a written request for such a hearing to the Commissioner. Such hearing shall be heard at the next regularly scheduled hearing or within thirty (30) days. The PIC shall issue a decision within ten (10) days and any decision shall be subject to M.G.L. c. 30A.

5. When the Commissioner determines that removal of a newsrack is required to prevent an imminent threat to public safety, the Commissioner shall remove such newsrack immediately and shall notify the certificate holder of such removal as soon as practicable.

6. Any newsrack removed pursuant to this subsection shall be stored for at least thirty (30) days. Any newsrack without a sticker and corresponding Certificate of Compliance may be disposed of after thirty (30) days. All other newsracks may be disposed of after sixty (60) days. (Ord. 2008 c. 9)

16-38.6 Abandonment.

a. *Abandonment.* The following newsracks properly installed pursuant to this section shall be deemed abandoned:

1. Any newsrack which does not contain the printed material being dispensed therein for a period of seventy-two (72) hours after the release of the current issue; or

2. Any newsrack in which no printed material is found for a period of more than fifteen (15) days.

b. *Notice and Removal.* Upon a determination that a newsrack is abandoned, the Commissioner shall send notice to the individual provided pursuant to CBC 16-38.2(c)(1) or (2), informing the certificate holder that the newsrack shall be removed in ten (10) days, unless the certificate holder informs the Commissioner that the newsrack is not abandoned and stocks the newsrack with material to be dispensed therein.

c. *Voluntary abandonment.* In the event that a certificate holder voluntarily abandons a newsrack location, the certificate holder shall so notify the Commissioner, completely remove the newsrack and restore the public way to a safe condition. (Ord. 2008 c. 9)

16-38.7 Fees.

a. A newsrack removed pursuant to this section may be retrieved by the certificate holder at any time within thirty (30) days of its removal upon payment of a removal fee of fifty (\$50.00) dollars plus a storage fee of ten (\$10.00) dollars per day, to a maximum combined removal and storage fee of two hundred (\$200.00) dollars per newsrack.

b. After thirty (30) days, any newsracks removed by the Commissioner pursuant to this section shall be deemed "abandoned property" and become property of the City of Boston.

c. Failure of a certificate holder to retrieve a newsrack within the specified thirty (30) day period shall not operate to dismiss any fees owed to the City of Boston for removal and storage of such newsrack. Unpaid fees accrued pursuant to this subsection shall be considered a debt payable to the City of Boston. (Ord. 2008 c. 9)

16-38.8 Effect on Other Laws.

Nothing in this section shall affect the adoption of regulations affecting newsracks by other government bodies, such as historic district commissions, to the extent such bodies are authorized to adopt such regulations. (Ord. 2008 c. 9)

16-38.9 Severability.

The provisions of this section shall be severable and if any section, part, or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining section, part or portion thereof. (Ord. 2008 c. 9)

16-38.10 Initial Application Acceptance Date.

The Commissioner shall send written notice to all operators affected by this section informing them of the date when the Commissioner will accept the first applications for Certificates of Compliance. The Commissioner shall send said notice at least thirty (30) days prior to the initial application acceptance date. (Ord. 2008 c. 9)

16-38.11 Effective Date.

This section shall take effect one hundred fifty (150) days from the date of approval. (Ord. 2008 c. 9)

16-39 SALE OF DANGEROUS INSTRUMENTS.**16-39.1 Prohibition of Sale of Dangerous Instruments.**

No person shall sell, give or deliver to any person under eighteen (18) years of age (hereinafter referred to as "minor") any of the following:

- a. Knife having a blade with a length of two (2") inches or more;
- b. Ice pick or similar implement having a metal pointed shaft and handle;
- c. Straight edged razor or razor blade fitted with a handle.

Transient vendors, peddlers or hawkers, as defined in Massachusetts General Laws, Chapter 101 (licensed or unlicensed) are prohibited from selling the above listed dangerous instruments in the City. (Ord. 1997 c. 9 § 1; Ord. 2001 c. 1) Penalty, see subsection 16-39.2

16-39.2 Penalty.

Any person found to be in violation of this section shall be fined three hundred (\$300.00) dollars per offense. Enforcement of this section shall be by non-criminal disposition as provided by in MGL, Chapter 40, Section 21D or by the filing of a criminal complaint at the appropriate venue. (Ord. 1997 c. 9 § 2)

16-39.3 Exemption.

The sale, gift, loan or delivery of any of the instruments detailed in subsection 16-39.1 of this section by a parent or an adult who is an immediate family member of the minor, to include siblings and grandparents, shall not be a violation of this section. (Ord. 1997 c. 9 § 3)

16-39.4 Licensing Requirements for Stores Selling Certain Knives.

Any store, except as provided in subsections (a) and (b), which sells knives having a fixed or locking blade of two (2) inches or more but not cutlery, shall obtain a license from the Licensing Unit of the Boston Police Department, hereinafter referred to as the Licensing Unit. For purposes of this section, the term *cutlery* shall mean utensils used as tableware or used for cutting and eating foods. The following stores shall have the following meanings for the purpose of this section and are exempt from the licensing provisions of this section:

(a) *Department store* means a large retail store offering a variety of merchandise and services organized into separate departments and commonly part of a chain;

(b) *Hardware store* means a store in the business of selling metal goods and utensils, such as locks and tools.

A convenience store, as defined herein, shall not be considered a department store as defined pursuant to subsection (a). For purposes of this section, a *convenience store* shall mean a retail business with a primary emphasis placed on providing the public with a convenient location to quickly purchase a limited variety of consumable products. A convenience store shall be subject to the licensing provisions of this section.

The Licensing Unit shall issue a license only if the applicant's license is not currently in a term of revocation or the applicant is not currently in violation of these sections or any regulations with any violations left unremedied or any fines left unpaid. An applicant must be free from violations of the provisions of these sections and subsections for one (1) year before application for a license. In determining suitability for a license, the Licensing Unit shall consider previous violations of city ordinances and if the applicant has previous violations of ordinances, the license shall be denied. A license issued under the provisions of this section shall be renewed automatically as provided by the regulations promulgated by the Boston Police Department.

Upon denial of a license the licensing unit shall notify the applicant in writing. The notice shall state the reasons for denial of the license and establish a date and time for a hearing. The hearing date shall be no earlier than seven (7) days after the date of said notice. The applicant shall have the opportunity to be heard at such hearing and shall be notified of the licensing unit's decision and reasons in writing.

Stores licensed to sell knives under the provisions of this section shall be prohibited from selling machetes and other knives as defined in Section 12 of Chapter 269 of the General Laws.

The Licensing Unit shall promulgate rules and regulations relating to the licensing of the stores under the provisions of this section. The Licensing Unit shall revoke a license issued pursuant to this section for a violation of 16-39.1.

Any fine imposed for violations of this section shall be subject to the provisions of Chapter 40U of the General Laws and CBC 16-55 relating to the collection of municipal fines.
(Ord. 2011 c. 15)

16-40 LIMITING TOBACCO ACCESS BY YOUTH.

16-40.1 Definitions.

Employee shall mean any individual who performs services for an employer in return for wages or profit.

Employer shall mean any individual, partnership, association, corporation, trust or other organized group of individuals, including the City of Boston or any agency thereof, which regularly uses the services of two (2) or more employees.

Individual shall mean any employee, volunteer or any other person who patronizes an area where tobacco products are sold.

Retail store shall mean any establishment selling goods or articles or personal services to the public.

Selfservice display (also known as "free-standing display") shall mean a display from which individual packs or cartons of tobacco products may be selected by a customer.

Tobacco vending machine shall mean any machine or device designated for or used for the vending of cigarettes, cigars, tobacco or tobacco products upon the insertion of coins, trade checks, swipe cards, slips, or any other form of payment.
(Ord. 1997 c. 1 § I)

16-40.2 Tobacco Sales to Minors Prohibited.

a. *Sale to Minors.* In conformance with Massachusetts General Laws, Chapter 270, Section 6,

whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen (18) or, not being his parent or guardian, gives a cigarette, chewing tobacco, snuff, or tobacco in any of its forms to any person under the age of eighteen, shall be punished according to the fine schedule set forth in paragraph h. of this section.

b. *Posting State Law.* In conformance with Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell cigarettes at retail.

The notice to be posted shall be provided by the Massachusetts Department of Public Health and made available from the Public Health Commission of the City of Boston. Such notice shall be at least forty-eight (48) square inches and shall be posted at the cash register which receives the greatest volume of single cigarette package sales in such a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4') feet or greater than nine (9') feet from the floor. For all other cash registers that sell cigarettes, a notice shall be attached which is no smaller than nine (9) square inches, which is the size of the sign provided by the Massachusetts Department of Public Health. Such notice must be posted in a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of no less than four (4') feet or more than nine (9') feet from the floor.

c. *Permit for Location and Sales of Tobacco.*

1. After the effective date of this section, the Public Health Commission of the City of Boston will issue a "Permit for Location and Sales" only if (a) the applicant's permit is not currently in a term of suspension and (b) the applicant is not currently in violation of these sections or any regulations with any violations left unremedied or any fines left unpaid and such permit will specify the name, address, and approved location per the Public Health Commission

of the City of Boston or their designated agent(s) for retailers who sell tobacco products.

2. After the effective date of this section, all retailers who are required to hold a State license to sell cigarettes or other tobacco products, will be required to hold and maintain a valid "Permit for Location and Sales" from the City of Boston for each location at which tobacco products are sold.

3. Subsequent to receipt of the permit, the Boston Public Health Commission shall make available and the successful applicant/retailer shall obtain and post in a clear and conspicuous manner signage that states "Sale of cigarettes or any tobacco products to persons under the age eighteen (18) is illegal, M.G.L. Chapter 270, Sections 6 and 7. The Boston Public Health Commission shall make available and the successful applicant/retailer shall obtain and post in a clear and conspicuous manner signage that discloses (a) current information for reporting violations of the provisions of this section and (b) current referral information about smoking cessation. The Boston Public Health Commission may provide updated signage to retailers during the term of the permit. Any merchant that does not post the signage required under this section shall be deemed to be in non-compliance of these provisions and shall be subject to penalties promulgated by the Boston Public Health Commission.

4. The term of the permit shall be one (1) year.

5. The fee for a one (1) year tobacco retailer's "Permit for Location and Sales" is one hundred dollars and no cents (\$100.00) for each tobacco retail location.

6. A "Permit for Location and Sales" is nontransferable, except a new permit will be issued to a tobacco retailer who changes locations.

7. During such time that a "Permit for Location and Sales" of tobacco products has been suspended for violations of this section, all tobacco products must be removed from the premises. Any person or entity selling any tobacco products without said permit shall be fined according to subsection 16-40.2h. until said permit is reinstated by the Public Health Commission of the City of Boston or its designated agent(s).

d. *Tobacco Vending Machines.* After the effective date of this section it shall be unlawful to sell or distribute any tobacco product through a cigarette vending machine or any other device used in the sale or distribution of tobacco products within the City of Boston unless said machine:

1. Is located in a private club or bar licensed by the Licensing Board of the City of Boston to sell or serve alcoholic beverages, and

2. Is equipped with a lock out device, installed in view of the attendant operating such device and posted with a sign not less than six (6") inches by sixteen (16") inches reading "Attention! This machine is equipped with a lockout device, to purchase a tobacco product, you must first see the person in charge."

e. *Out-of-Package Sales Prohibited.* No person or entity may sell or cause to be sold, or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes.

f. *Self-Service Display Restrictions.* No retailer shall sell or offer for sale tobacco products by means of a self-service display (also known as "free-standing display") unless such display is in strict compliance with the regulations promulgated by the Office of the Attorney General, specifically including but not limited to 940 CMR 21.04.

g. *Sales by Employees.*

1. In the event of a prospective purchase of cigarettes or other tobacco products at retail by a person age twenty-six (26) years old or younger, the employee responsible for completion of the sale shall request and examine photographic identification establishing the purchaser's age as eighteen (18) years or greater as long as such is not in conflict with Federal law.

2. No commercial entity selling tobacco products at retail shall allow any employee to sell cigarettes or other tobacco products until such employee reads the Boston Tobacco Control Ordinance and State laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer that he/she understands the section.

h. *Penalties, Fines, Suspension and/or Suspension Hearings of Permit.* It shall be the responsibility of the permit holder and/or individual in charge of the area where tobacco products are being sold to ensure compliance with all sections of this section pertaining to their place of business. The permit holder and/or individual in charge of the area permitted for tobacco sales, or persons involved in violation of any of the provisions of this section may receive:

1. In the case of a first violation, the permit holder and/or individual in charge of the area permitted for tobacco sales, or persons not in compliance with the provisions of this section shall receive a fine of one hundred (\$100.00) dollars.

2. In the case of two (2) violations within twenty-four (24) months, the permit holder and/or individual in charge of the area permitted for tobacco sales, or persons not in compliance with the provisions of this section shall receive a fine of two hundred (\$200.00) dollars and the permit shall be suspended for seven (7) consecutive business days.

3. In the case of three (3) violations within twenty-four (24) months, the permit holder and/or individual in charge of the area permitted for tobacco sales, or persons not in compliance with the

provisions of this section shall receive a fine of three hundred (\$300.00) dollars and the permit shall be suspended for thirty (30) consecutive business days.

4. In the case of four (4) or more violations within twenty-four (24) months, the permit holder and/or individual in charge of the area permitted for tobacco sales, or person not in compliance with the provisions of the section shall receive a fine of four hundred (\$400.00) dollars and the permit shall be suspended for sixty (60) consecutive business days and, upon public notice and comment, the permit may be permanently revoked at the sole discretion of the Public Health Commission.

5. The Public Health Commission of the City of Boston shall provide written notice to the permittee of the intent to suspend a Permit for Location and Sales of Tobacco. The notice shall contain the reasons for the suspension and establish a date and time for a hearing. The date of the hearing shall be no earlier than seven (7) days after the date of said notice. The permittee shall have an opportunity to be heard at such hearing and shall be notified of the Commission's decision and reasons in writing.

6. Any permit fees and fines collected under this section shall be used for enforcement of these regulations or for educational programs on the harmful effects of tobacco products.

i. *Non-Criminal Disposition.* Whoever violates any provision of this section, the violation of which is subject to a specific penalty, may be penalized by the noncriminal method of a disposition as provided in General Laws, Chapter 40, section 21D or by filing a criminal complaint at the appropriate venue.

Each day on which any violation exists shall be deemed to be a separate offense.

Penalty: \$100.00 for the first offense
 \$200.00 for second offense
 \$300.00 for third offense
 \$300.00 for the fourth offense in

addition to the provisions of CBC16-40.2(h).
 (Ord. 1997 c. 1 § II; Ord. 1997 c. 6; Ord. 2004 c. 10; Ord. 2011 c. 11)

16-40.3 Enforcement.

Enforcement of this section shall be implemented by the Public Health Commission of the City of Boston or its designated agent(s).

Any citizen who desires to register a complaint of noncompliance under the section may do so by contacting the Public Health Commission of the City of Boston or its designated agent(s).
 (Ord. 1997 c. 1 § III)

16-40.4 Public Education.

The Public Health Commission of the City of Boston shall engage in a continuing program to explain and clarify the purposes and requirements of the section to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such program may include publication of a brochure for affected business and individuals explaining the provisions of this section. The Public Health Commission of the City of Boston shall respond to any requests from tobacco retailers for assistance in training sales personnel.
 (Ord. 1997 c. 1 § V)

16-40.5 Boston Public Health Commission Authority.

Pursuant to M.G.L. c. 111, section 31 and M.G.L. c. 111, App. section 2-8(a), the Boston Public Health Commission of the City of Boston is authorized to fix, revise, determine and collect any fees set forth in this ordinance.

Pursuant to M.G.L. c.111, section 31 and M.G.L. c. 111, App. sections 2-6(b), 2-7(a)(1) and 2-7(a)(15), the Boston Public Health Commission of the City of Boston is further authorized to adopt, amend and repeal reasonable health regulations not inconsistent with any public health regulation of the state department of public health or with any other provision of law and to prescribe a penalty for any violation of said regulations according to the nature of the offense.

To the extent this ordinance conflicts with or is inconsistent with any Boston Public Health Commission regulation, penalty, or fee, the Boston Public Health Commission regulation, penalty, or fee shall prevail.

(Ord. 2011 c. 11)

16-41 PROHIBITING AGGRESSIVE SOLICITATION.

16-41.1 Definitions.

For purposes of this section:

a. *Solicit* shall mean to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other value. The solicitation may be, without limitation, by the spoken, written, or printed word, bodily gestures, signs, or by other means of communication.

b. *Aggressive manner* shall mean:

1. Any conduct that is (i) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in that person's immediate possession; or (ii) intended to or is likely to cause a reasonable person to be intimidated into responding affirmatively to the solicitation; or

2. Persisting in closely following or approaching a person, after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or

3. Intentionally or recklessly blocking or interfering with the safe or free passage of the person being solicited, whether the person is a pedestrian or the operator of a vehicle, including the situation where the person takes evasive action to avoid physical contact with the person making the solicitation; or

4. Intentionally touching or making any physical contact with the person being solicited in the course of the solicitation without the person's consent.

c. *Automated teller machine* shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

d. *Automated teller machine facility* shall mean the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers during and after regular banking hours.

e. *Bank* shall mean the same as the defined G.L. c. 167, s. I.

f. *Check cashing business* shall mean the same as that defined by G.L. 167, c. 169A, s. I.

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g. *Public area* shall mean an area to which the public has access and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings, and dwellings.
(Ord. 1997 c. 10)

16-41.2 Prohibited Acts.

It shall be unlawful for any individual to solicit money or other things of value, even if validly licensed by the City of Boston for such act, if such solicitation is conducted:

a. In an aggressive manner in a public area, including the situation where the individual being solicited in an aggressive manner is the operator or occupant of a motor vehicle located on a public way and the solicitation consists of performing or offering to perform a service in connection with such vehicle; or

b. Within ten (10') feet of any entrance or exit of any bank or check cashing business during the hours of operation of such bank or check cashing business or within ten (10') feet of any automated teller machine during the hours of its operation.
(Ord. 1997 c. 10)

16-41.3 Penalties.

Any individual who violates subsection 16-37.2 of this section shall be subject to a fine of fifty (\$50.00) dollars for the first offense and one hundred (\$100.00) dollars for any subsequent offense, or, that the Court may impose such community service as it shall determine in lieu of a monetary fine.
(Ord. 1997 c. 10)

16-42 LASER POINTERS.

16-42.1 Definitions.

For purposes of this section, the following definitions shall apply:

Laser pointer shall mean any device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

Person shall mean any natural person, corporation, partnership, firm, organization or other legal entity.

Public Space shall mean a place to which the public has a right of access, and includes, but is not limited to, any street, highway, parking lot, plaza, transportation facility, place of amusement, park, or playground.

School Premises shall mean the buildings, grounds, or facilities, or any portion thereof, owned, occupied, or under the custody or control of public or private institutions for the primary purpose of providing educational and recreational instruction to students.

Student shall mean any person enrolled to attend a public, private or parochial elementary or secondary school in the City of Boston.
(Ord. 1999 c. 2 § 1)

16-42.2 Sales to Minors Prohibited.

It shall be unlawful for any person to give, sell or offer for sale or cause any person to give, sell or offer to sell a laser pointer to any individual eighteen (18) years of age and younger.
(Ord. 1999 c. 2 § 2) Penalty, see subsection 16-42.6

16-42.3 Sales Restricted.

a. No person shall sell or offer for sale laser pointers by means of a self-service display unless such display is located within ten (10') feet of the checkout counter and in plain view of the cashier or person on duty and in charge of the establishment.

b. No person shall display laser pointers in any manner or post a sign advertising the availability of laser pointers unless a notice has been posted to it indicating that the sale or giving of laser pointers to persons eighteen (18) years of age and younger is a violation of this ordinance.
(Ord. 1999 c. 2 § 3) Penalty, see subsection 16-42.6

16-42.4 Possession Restricted.

a. No student shall possess a laser pointer on school premises; and

b. No person eighteen (18) years of age and younger shall possess a laser pointer while in a public space; provided however, that nothing in this section shall preclude:

1. The possession on school premises of a laser pointer by a student eighteen (18) years of age or younger for a valid instructional, school-related or employment purpose, where such laser pointer is used under the supervision of a school staff person, other authorized instructor, or parent; or

2. The possession in a public place of a laser pointer by a person eighteen (18) years of age and younger, during such person's hours of employment, for a valid employment purpose where such laser pointer is used under the supervision of the employer or its agent.
(Ord. 1999 c. 2 § 4) Penalty, see subsection 16-42.6

16-42.5 Harassment by Laser Beams in Public Prohibited.

No person, regardless of age, shall focus, point or shine a laser beam directly or indirectly on another person in a public place or in a moving vehicle in such a manner as is intended to harass or annoy said person or any person operating a moving vehicle.
(Ord. 1999 c. 2 § 5) Penalty, see subsection 16-42.6

16-42.6 Penalty.

Any person found to be in violation of this section shall be fined three hundred (\$300.00) dollars per offense. Enforcement of this section shall be by noncriminal disposition as provided by in MGL, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.
(Ord. 1999 c. 2 § 6)

16-43 TRESPASSING ON PRIVATE PROPERTY.

In the city of Boston, all delivery personnel, including letter carriers, whether employed by a private firm, a government agency, or government-supported corporation, shall use sidewalks and accepted and approved walkways when accessing private property, and, excepting for necessity or

emergency, shall refrain from traversing lawns or other private property not normally used as a walkway by the general public in order to effect delivery.
(Ord. 2000 c. 3)

16-44 SALE OF MERCURY THERMOMETERS BANNED.

16-44.1 Definitions.

a. City means the City of Boston.

b. Mercury thermometer means a mercury-containing product that is used to measure body temperature. A mercury-containing product is a product, device, instrument or equipment into which elemental mercury or mercury compounds are intentionally added during its formulation or manufacture and in which the continued presence of mercury is desired to provide a specific characteristic or permit a specific function.

c. Health care facility means any hospital, nursing home, extended care facility, long-term facility, clinic or medical laboratory, state or private health or mental institution, clinic, physician's office or health maintenance organization.

d. Manufacturer means any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produces a mercury fever thermometer. If the mercury thermometer is produced in a foreign country, the manufacturer is the importer of domestic distributor.
(Ord. 2000 c. 5 § 2.1)

16-44.2 Retail Sale Prohibited.

A person shall not sell or supply (including online retail) mercury fever thermometers to consumers and patients, except by prescription. The manufacturers of mercury fever thermometers shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever thermometers sold through prescriptions.
(Ord. 2000 c. 5 § 2.2) Penalty, see subsection 16-44.6

16-44.3 Manufacturing Prohibited.

It shall be unlawful for any person to manufacture a mercury thermometer in the City. (Ord. 2000 c. 5 § 2.3) Penalty, see subsection 16-44.6

16-44.4 Importation Prohibited.

It shall be unlawful for any facility to import, purchase, or distribute a mercury thermometer in the City, except in the case of a medical necessity as determined by a licensed physician. (Ord. 2000 c. 5 § 2.4) Penalty, see subsection 16-44.6

16-44.5 Restriction on the Sale of Mercury Thermometers.

Six months after the adoption of this section, a person may not sell or supply mercury fever thermometers to consumers and patients. (Ord. 2000 c. 5 § 2.5) Penalty, see subsection 16-44.6

16-44.6 Penalty.

Any person who violates this ordinance shall be subject to a fine of not more than seven hundred dollars (\$700.00) per unit sold. The Public Health Commission shall have jurisdiction over outreach and enforcement of this section. (Ord. 2000 c. 5 § 2.6)

16-45 PROHIBITING THE CARRYING OF KNIVES OR SIMILAR WEAPONS.**16-45.1 Carrying of Weapons Prohibited.**

No person, except as provided by law, shall carry on his person, or carry under his control in a vehicle, any knife having any type of blade in excess of two and one-half (2½") inches, ice picks, dirks or similar weapons that are likely to penetrate through police officer's ballistic vests, or other object or tool so redesigned, fashioned, prepared or treated that the same may be used to inflict bodily harm or injury to another, except:

a. When actually engaged in hunting or fishing or any employment, trade or lawful recreational or

culinary activity which customarily involves the carrying or use of any type of knife, or

b. In going directly to and/or returning directly from such activities, or

c. If the knife is being transported directly to or from a place of purchase, sharpening, or repair, and if packaged in such a manner as not to allow easy access to the knife while it is being transported.

No person, except as provided by law, shall carry on his person, or carry under his control in a vehicle, a machete. For purposes of this section, "machete" means a heavy knife at least eighteen (18) inches in length and having a blade at least one and one-half (1.5) inches wide at its broadest measurement. This subsection shall not apply to carrying a machete on one's person or in a vehicle if the machete is carried for the purpose of cutting vegetation or if the machete is being transported for the purpose of cutting vegetation. (Ord. 2001 c. 10; Ord. 2008 c. 13 § 1) Penalty, see subsection 16-45.4

16-45.2 Distribution Exception.

This section shall not apply to persons who, through entities or establishments engaged in a recognized retail or wholesale business, are involved in the sale, purchase or repair of machetes or knives for trade, sport, hobby or recreation, including without limitation persons engaged in the transportation to or from such entities or establishments. (Ord. 2001 c. 10; Ord. 2008 c. 13 § 2)

16-45.3 Applicability.

Nothing in this section shall be construed to enhance or diminish any duties of persons described in subsection 16-45.2, and this section shall not be introduced or cited in any proceeding as evidence of negligence, recklessness, or similar state of mind of such persons. (Ord. 2001 c. 10)

16-45.4 Penalty.

Violators of any provision of this section shall be subject to a fine of not more than three hundred (\$300.00) dollars for each offense. (Ord. 2001 c. 10)

16-45.5 Severability.

The provisions of this section shall be severable and if any section, part, or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining section, part or portion thereof.
(Ord. 2001 c. 10)

16-46 NONCRIMINAL DISPOSITION OF ZONING VIOLATIONS IN THE CITY OF BOSTON.

16-46.1 General Penalty: Noncriminal Disposition of Zoning Violations.

Any person who violates any section of the Boston Zoning Code, as it may be amended, through the use or occupancy of land, buildings, or structures in the City of Boston in a manner designated by the Commissioner of the Inspectional Services Department or the designee or successor thereto (hereinafter "Commissioner" for the purposes of CBC 16-46) in CBC 16-46.3 shall be liable for a specific penalty set forth in CBC 16-46.4 and may also be penalized by a non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D.
(Ord. 2003 c. 17 § 1)

16-46.2 Enforcing Person and Regulatory Authority.

The Commissioner shall be the enforcing person for violations under CBC 16-46 and shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.
(Ord. 2003 c. 17 § 1)

16-46.3 Violations.

Violations under CBC 16-46 shall include, but not be limited to the following:

a. *Auto Repair.* Any person who violates any section of the Boston Zoning Code, as it may be amended, through the use and occupancy of land, buildings, or structures in a residential zoning district as defined by the Boston Zoning Code for the purposes described in use items 35A (sale within a

building of automotive parts), 36 (sale of automobiles and trucks), 51 (outdoor sale or display of automobiles for sale), 55 (outdoor storage of contractor equipment and materials), 57 (outdoor storage of junk scrap, wrecking or dismantling of motor vehicles), 57A (outdoor storage of damaged motor vehicles), 60 (repair garage), 60A (sale or installation indoors of automotive parts) of Boston Zoning Code Article 8, Section 2 shall be in violation of CBC 16-46. Each day a violation occurs or remains unremedied shall be considered a separate violation.

b. *Yard Parking.* Any person who violates any section of the Boston Zoning Code, as it may be amended, through the use and occupancy of land, buildings, or structures in a residential zoning district as defined in the Boston Zoning Code for the purpose of parking motor vehicles on any front yard, side yard, or rear yard as defined in Boston Zoning Code Article 2A shall be in violation of CBC 16-46. Each day a violation occurs or remains unremedied shall be considered a separate violation.

c. *Work without a Building Permit.* Any person who violates any section of the Boston Zoning Code, including but not limited to Article 4, Section 3, as it may be amended, by performing work on any land, building or structure without the approval of the Commissioner shall be in violation, of CBC 16-46. Each day a violation occurs or remains unremedied shall be considered a separate violation.

d. *Signs.* Any person who violates any section of the Boston Zoning Code, including but not limited to Article 11, as it may be amended, by failing to comply with any sign requirement shall be in violation of CBC 16-46. Each day a violation occurs or remains unremedied shall be considered a separate violation.
(Ord. 2003 c. 17 § 1; Ord. 2009 c. 6)

16-46.4 Enforcement, Penalties, and Fines.

A person in violation of CBC 16-46, unless otherwise provided, shall incur a civil fine of one hundred fifty dollars (\$150.00) for the first offense and a civil fine of three hundred dollars (\$300.00) for the second offense and all subsequent offenses. A person in violation of CBC 16-46(3) shall incur a civil fine of fifty dollars (\$50.00) for the first offense and a civil fine of one hundred dollars (\$100.00) for the second and all subsequent offenses. Each day a

violation occurs or remains unremedied shall be considered a separate violation. The Commissioner may, at the Commissioner's discretion, issue a written warning for a first offense in lieu of a fine.

A person in violation of CBC 16-46 may also be subject to enforcement under any other laws in the Commonwealth of Massachusetts or the City of Boston applicable to the same conduct constituting a violation under CBC 16-46 including a higher penalty whenever a higher penalty is permitted under the Massachusetts General Laws, provided, however, that such higher penalty shall be the maximum penalty for each offense. The City of Boston shall not be precluded by any enforcement under CBC 16-46 from concurrently seeking an injunction to restrain a violation.

A person in violation of CBC 16-46 may appeal enforcement action hereunder pursuant to Boston Zoning Code Article 5, Section 2, and the filing of a timely appeal under Boston Zoning Code Article 5, Section 2 shall not stay further enforcement under any other rule, regulation, ordinance, or by-law.

All fines and penalties paid hereunder shall inure to the City of Boston.
(Ord. 2003 c. 17 § 1; Ord. 2009 c. 6)

16-46.5 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2003 c. 17 § 1)

16-47 PROHIBITING THE SALE AND/OR INSTALLATION OF A MUFFLER CUT-OUT OR BY-PASS AND PROHIBITING CERTAIN MODIFICATIONS TO EXHAUST SYSTEMS.

No person shall sell, offer for sale, or install on or in any motor vehicle or trailer: (a) a muffler from which the baffle plates, screens, or other original internal parts have been removed and not replaced; (b) an exhaust system which has been modified in a manner which will result in an amplification or an increase in the noise emitted by the exhaust system; or

(c) a muffler cut-out or by-pass. A first violation of this section shall be punishable by a fine of not less than one hundred dollars and no cents (\$100.00) and not more than two hundred fifty dollars and no cents (\$250.00). A second violation of this section shall be punishable by a fine of not less than two hundred fifty dollars and no cents (\$250.00) and not more than five hundred dollars and no cents (\$500.00). A third and all subsequent violations shall be punishable by a fine of not less than five hundred dollars and no cents (\$500.00) and not more than one thousand dollars and no cents (\$1,000.00).

a. Motorcycle exhaust system labeling.

1. No person shall park, use or operate a motorcycle, within the City of Boston, manufactured subsequent to December 31, 1982 that does not bear the required applicable Federal EPA exhaust system label pursuant to the Code of Federal Regulations Title 40, Volume 24, Part 205, Subparts D and Subpart E.

2. All violations of subsection a. 1. shall be punishable by a fine of three hundred dollars and no cents (\$300.00).

3. Commissioner of the Boston Police Department, or his or her designee, shall have the authority to enforce subsection a. of this section.
(Ord. 2003 c. 18 § 1; Ord. 2009 c. 4)

16-48 BOAT SLIPS AND MOORINGS.

16-48.1 Purpose.

In recent years, there has been a dramatic increase in the use of recreational boats in Boston Harbor. Simultaneously, the City of Boston has undertaken increased security measures, and the effectiveness of these security measures requires attentiveness from the Harbormaster and cooperation from the boating community. The boating community plays a unique and valuable role in self-policing itself and insisting on high community standards throughout the waterways, but the security of the Boston Harbor depends on the vigilance of the uniformed and civilian personnel of the Harbormaster.

The City expends considerable funds annually to provide an Office of the Harbormaster and Harbor

Patrol craft to enhance and protect public safety, public health, and the public welfare. Appropriately, other cities and towns along the Massachusetts coastline have collected user fees that at least partially defray the expense in providing a Harbormaster and a mooring program, and security, however critical it may be, is only a portion of the Harbormaster's duties.

The City of Boston, in deference to the history of the recreational boating community and in order to encourage the recreational use of the Boston Harbor, has delayed its demand and collection of such user fees. In fact, Boston Harbor is among the last of the Massachusetts harbors to implement some form of municipal-level harbor-centered user fee. Increased boater population, augmented security requirements, and other amplified programmatic demands have combined to make it impossible for the Harbormaster to maintain a responsible and adequate level of service and attention to the boating community without administering a small annual fee to the recipients of the service and attention: boaters that moor or dock their boats in Boston Harbor.

Finally, the City will establish a Waterways Board comprised of persons and organizations with the knowledge and expertise to provide a public forum to ensure the most effective, safe, fair, and equitable use of the waterways.
(Ord. 2004 c. 1 § 1)

16-48.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in CBC 16-48.

a. The terms "*boat*" and "*vessel*" are not defined terms and are used interchangeably.

b. *City* means the City of Boston.

c. *City Clerk* means the City Clerk of the City of Boston.

d. *City Council* means the City Council of the City of Boston.

e. *City Waterways* means all waterways within the boundaries of the City, including but not limited to

harbors, bays, and coves, whether publicly- or privately-owned or controlled, over which the Harbormaster has public safety and/or public health jurisdiction.

f. *Commercial Group Mooring Company* means an entity in the business of providing berthing or mooring of boats on a seasonal or transient basis to the general public and that qualifies as a Public Recreational Boating Facility.

g. *Commodore* means the Commodore of a private yacht club in the City of Boston that qualifies as a Public Recreational Boating Facility.

h. *Harbormaster* means the Harbormaster of the City of Boston.

i. *Mayor* means the Mayor of the City of Boston.

j. *Permit Holder* means a person that has applied for and received a permit from the Harbormaster under CBC 16-48.4 or that has paid the fees and received the decal from the Harbormaster under CBC 16-48.7.

k. *Permitted Boat* means the boat owned by a Permit Holder for which the Permit Holder received a permit from the Harbormaster under CBC 16-48.4 or for which the Permit holder received a decal from the Harbormaster under CBC 16-48.7.

l. *Permitted Mooring* means the mooring for which a Permit Holder received a permit from the Harbormaster.

m. *Public Recreational Boating Facility* means a facility for berthing of recreational vessels at which all berths and accessory uses thereto are available for patronage by the general public on a seasonal or transient basis; such facility may be either publicly or privately owned, and may include town piers, commercial rental marinas, or community sailing centers or yacht clubs offering open membership to the public; nothing in this definition shall be construed as prohibiting the adoption of minimum eligibility criteria of broad, objective applicability, such as basic knowledge of boating safety or a willingness to make regular work commitments; nor as prohibiting the

reservation of a berth for the operator of said facility. This definition is promulgated by the Massachusetts Department of Environmental Protection in its waterways regulations found at 310 CMR 9.00 *et seq.*

n. *Transient Boat* means a boat that is in City Waterways, including but not limited to being moored at a Permitted Mooring, for no more than fourteen (14) successive calendar days nor more than twenty-eight (28) total calendar days in a calendar year.

o. *Transient Mooring* means a Permitted Mooring that is not dedicated to a Permitted Boat.

p. *Waterways Board* means the Boston Waterways Board established pursuant to CBC 16-48.15.
(Ord. 2004 c. 1 § 1)

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16-48.3 Harbormaster Authorization.

No boat in any City Waterway, other than a Transient Boat, may be moored, docked, or anchored at any private dock, marina, boat club, boatyard, yacht club, Commercial Group Mooring Company, and/or any other Public Recreational Boating Facility, without obtaining authorization from the Harbormaster.

(Ord. 2004 c. 1 § 1)

16-48.4 Permits.

No mooring may be placed in City Waterways without a permit, and a permit may be issued only by the Harbormaster upon a written application in accordance with the dates in CBC 16-48.9. The Harbormaster shall publish and supply a standard form of permit application which shall include, but not be limited to, applicant's complete name, applicant's complete address of primary residence, applicant's residential telephone number, applicant's office telephone number or alternative emergency telephone number, the name of the boat, a description of the boat (name, make, model, year, color, type, draft, length, and use), the city/town of the prior year's mooring, and the registration or documentation of the boat.

The Harbormaster may not issue a mooring permit under these sections unless the permit applicant has successfully and timely completed and executed an application for mooring permit, has successfully and timely completed all required forms and/or other applications, and has successfully and timely submitted proof of payment of all applicable taxes (including, if applicable, penalties and interest) and fees. In accordance with 310 CMR 9.07, the Harbormaster shall act on the application within fifteen (15) calendar days. The Harbormaster must delineate in writing the reason(s) for a rejection, and if such reasons may be remedied/corrected then such rejected applicant shall be granted fifteen (15) calendar days to remedy/correct the reason(s) for rejection, and upon the applicant's satisfactory and timely proffer of written evidence of complete remedy/correction then the Harbormaster shall approve the application and issue the permit within seven (7) calendar days.

If the applicant for renewal of a mooring permit successfully and timely completes and executes an application for mooring permit, successfully and timely completes all required forms and/or other applications, and timely submits proof of payment of all applicable taxes (including, if applicable, penalties and interest) and fees then, absent documented cause for rejection, the Harbormaster shall approve the application and issue the permit within seven (7) calendar days.

Any mooring existing without a permit shall be deemed to be a public nuisance and shall be deemed to be in violation of these sections and may be removed at the expense of the mooring owner and delivered to the possession of the Harbormaster to a storage area designated by the Harbormaster. The removed mooring (a) may be claimed by the mooring owner subject to payment of removal fees, storage fees, and any fines that may have accrued or (b) may be disposed of pursuant to M.G.L. c. 91.

(Ord. 2004 c. 1 § 1)

16-48.5 Assignment.

In accordance with 310 CMR 9.02(a), the Harbormaster shall provide a written procedure for the fair and equitable assignment from a waiting list for use of vacant or new moorings held by bottom-anchor and ramps associated thereto. Methods for mooring assignment which are appropriate include, but are not limited to, one or more of the following: (a) date of application, (b) physical characteristics of boats (i.e. size and type), and/or (c) purpose of boat (i.e. commercial/recreational or public/private). The Harbormaster may allow the previous Permit Holder of a specific mooring to renew, on an annual basis, that specific mooring another mooring within the control of the Harbormaster.

As noted in CBC 16-48.9, pursuant to 310 CMR 9.07(2)(d), nothing in these sections shall be construed to prevent moorings for which permits are issued to a Public Recreational Boating Facility from being assigned to individual patrons or members of such facility.

The Waterways Board shall annually review the written procedures, policies, and practices of the Harbormaster and the Public Recreational Boating Facilities in accordance with CBC 16-48.15. (Ord. 2004 c. 1 § 1)

16-48.6 Fees.

All boats that are moored in City Waterways, tied at slips, or seasonally rack-stored on waterfront property with launching capacity, shall be assessed an annual fee as recommended by the Waterways Board and approved by the City Council and the Mayor. Until such time as the Waterways Board, City Council, and Mayor revise the fee, the fee shall be assessed at the rate of one dollar (\$1.00) per foot of boat length for residents of the City of Boston and five dollars (\$5.00) per foot of boat length for non-residents. Transient Boats, boats exempt from the excise tax pursuant to M.G.L. c. 60B, s. 3, and all boat tenders or dinghies less than twelve feet (12') long that belong to or are attached to a Permitted Boat shall be exempt from this fee. (Ord. 2004 c. 1 § 1)

16-48.7 Decals.

In order to evidence payment of the fees assessed in these sections, the Harbormaster shall issue decals that shall not exceed three inches in length by three inches in height (3" x 3") which shall be affixed to the port side of a Permitted Boat near the transom. Nothing in this section requires a permit decal to be affixed to any boat exempt from CBC 16-48.6. Nothing in this section prohibits the decal for the current year from being placed over the decal for a previous year. The Permit Holder shall ensure that the decal remains visible to casual inspection, clear of debris and obstruction. (Ord. 2004 c. 1 § 1)

16-48.8 Application Dates.

Applications for mooring permits, including applications for renewal of mooring permits, shall be accepted after January 1 but must be postmarked or submitted to the Harbormaster by April 1 of each calendar year. Applications for renewal of mooring

permits that are postmarked or received by the Harbormaster after April 1 but before June 1 shall be assessed a late fee of twenty-five dollars (\$25.00).

Any mooring existing without a permit shall be deemed to be a public nuisance and shall be deemed to be in violation of these sections and may be removed at the expense of the mooring owner and delivered to the possession of the Harbormaster to a storage area designated by the Harbormaster. The removed mooring (a) may be claimed by the mooring owner subject to payment of removal fees, storage fees, and any fines that may have accrued or (b) may be disposed of pursuant to M.G.L. c. 91. (Ord. 2004 c. 1 § 1)

16-48.9 Use.

A Permitted Mooring shall be non-transferable except to a person within the immediate family of the Permit Holder upon the written approval of the Harbormaster. The Harbormaster may authorize in writing the temporary use of a Permitted Mooring by a boat other than the Permitted Boat upon written application of the Permit Holder. Pursuant to 310 CMR 9.07(2)(d), (a) Commodores may assign vessels of its individual patrons or members to its Permitted Moorings and shall notify the Harbormaster of any such assignment but such notification is not required if such assignment is made to a Transient Boat and (b) Commercial Group Mooring Companies may assign vessels of its individual patrons or members to its Permitted Moorings and shall notify the Harbormaster of any such assignment but such notification is not required if such assignment is made to a Transient Boat. Commodores may assign guest vessels to guest moorings or to Permitted Moorings of its individual patrons or members upon written permission from the Permit Holder and shall notify the Harbormaster of any such assignment but such notification is not required if such assignment is made to a Transient Boat.

In accordance with *Cooper v. Eisenman*, C.A. No. 86-2571-C (D. Mass. March 9, 1988), *affirmed* 867 F.2d 606 (1st Cir. (Mass.) Dec. 9, 1988), *cert. denied* 491 U.S. 907 (1989), nothing in this ordinance shall be construed to prohibit the transfer of a group

of Permitted Moorings pursuant to the sale of a commercial enterprise including, but not limited to, a boatyard, a yacht club, a marina, a boat club, a Commercial Group Mooring Company, and/or any other Public Recreational Boating Facility.
(Ord. 2004 c. 1 § 1)

16-48.10 Expiration.

All mooring permits expire on February 15 of the calendar year following the issuance but may be renewed pursuant to the provisions of CBC 16-48.4. A Permit Holder that sells or transfers ownership of a Permitted Boat shall notify the Harbormaster immediately upon such sale or transfer, and if the new owner intends to moor the Permitted Boat at the Permitted Mooring then the new owner shall contact the Harbormaster and satisfy the requirements of CBC 16-48.4.
(Ord. 2004 c. 1 § 1)

16-48.11 Changes.

No person may move, remove, or relocate a mooring without the prior written authorization of the Harbormaster except for normal servicing of moorings and minor realignment of moorings to prevent adverse contact with nearby boats on moorings wherein the mooring is moved (a) to its original location or (b) no more than ten feet (10').

A Permit Holder shall notify the Harbormaster immediately upon any change in the information provided on the application for a mooring permit.
(Ord. 2004 c. 1 § 1)

16-48.12 Marking on Mooring.

All Permitted Moorings shall be visibly marked with the corresponding assigned permit number in font no smaller than one inch (1"). The Permit Holder shall ensure that the marking remains legible to casual inspection, reasonably clear of debris, and reasonably unobstructed.
(Ord. 2004 c. 1 § 1)

16-48.13 Enforcement and Penalties.

The Harbormaster shall enforce the provisions of these sections. Unless otherwise delineated in these

sections, any violation of these sections shall subject the person in violation to a fine of twenty-five dollars (\$25.00) for each day the violation persists. As specifically delineated in these sections, certain violations may subject the applicable mooring to immediate removal.

The Harbormaster may require owners of moorings to provide evidence/documentation of satisfactory periodic inspection of their moorings for fitness and structural integrity.
(Ord. 2004 c. 1 § 1)

16-48.14 Annual Report.

In an effort to assist the evaluation of the effectiveness of the mooring programs of the City of Boston, the Harbormaster, with the cooperation of the Assessor of the City of Boston and the Collector-Treasurer of the City of Boston, shall annually prepare a report relevant to the City of Boston's waterways usage and mooring programs for the calendar year commencing on January 1 and ending on December 31. The annual report shall include but not be limited to: (a) the number of boats moored/docked in City Waterways, (b) the number of Permitted Moorings in City Waterways, (c) the number of applications received for permits, (d) the number of Permit Holders, (e) the number of Permit Holders that are residents of the City of Boston, (f) the number of Permit Holders that are non-residents of the City of Boston, (g) the number of violations issued by the Harbormaster, (h) the top three (3) most numerous types of violations issued by the Harbormaster, (i) a narrative summary of the most significant public safety incidents, (j) the aggregate amount of fees collected under these sections, (k) the aggregate amount of excise taxes collected, and (l) the aggregate amount of fines collected under these sections. Originals of this annual report shall be forwarded to the Waterways Board and filed with the City Clerk no later than January 31 of each calendar year, and the City Clerk shall forthwith forward this annual report to the Mayor and the City Council. The Waterways Board shall file written comments and/or recommendations to the annual report with the City Clerk no later than March 1 of each calendar year, and the City Clerk shall forthwith forward this annual report to the Mayor and the City Council.
(Ord. 2004 c.1 § 1)

16-48.15 Boston Waterways Board.

Pursuant to these sections, the Boston Waterways Board shall be established. The Waterways Board is intended and designed to provide a regular forum dedicated to guiding the development and use of the City Waterways and the sound implementation of, among others, M.G.L. c. 91, M.G.L. c. 60B, and the regulations promulgated thereunder.

The Waterways Board shall be comprised of nine (9) volunteer members appointed by the Mayor with the approval of the City Council, and shall include the Harbormaster and representatives from a variety of classes of users of City Waterways. The term of all appointees shall be three (3) years, except that the initial terms shall be staggered so that the terms of no more than three (3) appointees terminate in any single year.

The Waterways Board shall annually review (i) the written procedures, policies, and practices of the Harbormaster and, upon such review, shall make written recommendations to the Harbormaster and shall forward such recommendations to the City Clerk who shall forward them to the Mayor and the City Council; (ii) the written procedures, policies, and practices of the Public Recreational Boating Facilities and, upon such review, shall make written recommendations to the Public Recreational Boating Facilities and shall forward such recommendations to the Harbormaster and the City Clerk who shall forward them to the Mayor and the City Council; (iii) the amount of the fees assessed under these sections and, upon such review, shall make written recommendations to the Harbormaster and shall forward such recommendations to the City Clerk who shall forward them to the Mayor and the City Council; and (iv) the annual report required pursuant to CBC 16-48.14.

Without compromising public safety and public health, the Waterways Board shall recommend fees, policies, rules, and regulations to promote the greatest public access to and public use of the City Waterways by residents, visitors, businesses, and other interested persons. The policy recommendations of the Waterways Board shall be in writing and shall be filed with the City Clerk who shall forward them to the

Mayor and the City Council, and the policy recommendations may include, but not be limited to, appeals processes to mitigate the number of appeals made to the Massachusetts Department of Environmental Protection, inspection requirements for moorings, and waterways fees. The Waterways Board may cooperate with any Municipal Harbor Plan Advisory Committees to promote implementation of waterways usage elements of Municipal Harbor Plans in the City. The Mayor with the approval of the City Council, may direct the Harbormaster to adopt or implement specific recommendations made by the Waterways Board, and, to the extent required, shall amend CBC to effect such recommendations. All meetings of the Waterways Board shall be open to the general public with opportunity for public participation.

(Ord. 2004 c. 1 § 1)

16-48.16 Applicability.

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.

(Ord. 2004 c. 1 § 1)

16-48.17 Regulatory Authority.

In consultation with the Waterways Board, the Harbormaster shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections. To the extent that the regulations impact the excise tax and the municipal waterways improvement and maintenance fund, the Harbormaster shall consult with the Assessor of the City of Boston and the Treasurer-Collector of the City of Boston.

(Ord. 2004 c. 1 § 1)

16-48.18 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2004 c. 1 § 1)

16-48.19 Implementation.

The provisions of these sections shall be effective immediately upon passage, but no fees may be charged until January 1, 2005 and no fines may be assessed until June 1, 2005.

(Ord. 2004 c. 1 § 1)

16-49 IDENTIFYING JACKETS FOR VALET PARKERS.**16-49.1 Purpose.**

The Boston Transportation Department has established different parking regulations to divide the city's limited parking among residential and commercial uses. Regulations on parking include the use of meters and the issuance of permits, such as the Residential Parking Permit and Valet Parking Permit. The Boston Transportation Department's Traffic Rules and Regulations govern valet parking operations and the issuance of Valet Parking Permits, and Article IVA, Section 2 of these regulations require valet parking personnel to use only designated Valet Parking Zones for the discharge and receiving of passengers while Article IVA, Section 7.2 prohibits valet parking of a car in any space that is not in an approved off-street parking facility. These regulations seek to ensure that valet parking personnel do not park cars in spaces that would otherwise be available to visitors and residents in a neighborhood. City personnel face difficulty enforcing these provisions, however, because valet parking personnel are not easily distinguished from the public. Valet parking personnel are able to evade the restrictions and park illegally at meters, in Resident Parking spaces, and other inappropriate locations. Enhancing the means of enforcing these parking regulations will help ensure the proper use of on-street parking as delineated in the regulations of the Boston Transportation Department. If able to distinguish between valet parking personnel and the general public, the city personnel enforcing parking restrictions and Valet Parking Permits could more easily identify violations of these regulations.

(Ord. 2004 c. 9)

16-49.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in CBC 16-48.

a. *Boston Transportation Department* means the Boston Transportation Department or its successor.

b. *CBC* means the City of Boston Code of Ordinances.

c. *City* means the City of Boston.

d. *Valet Parking Operator* means any employee or agent of a person, business, establishment, or corporation granted a Valet Parking Permit pursuant to Article IVA of the Traffic Rules and Regulations of the Boston Transportation Department who is engaged in receiving or discharging passengers or loading or unloading baggage from a vehicle, making arrangements to remove a vehicle to a designated off-street parking facility, parking a vehicle, or otherwise in control of a vehicle subject to valet parking requirements pursuant to Article IVA of the Traffic Rules and Regulations of the Boston Transportation Department.

e. *Valet Parking Permit* means a permit issued to a person, business, establishment or corporation pursuant to Article IVA of the Traffic Rules and Regulations of the Boston Transportation Department. (Ord. 2004 c. 9)

16-49.3 Prohibition.

No Valet Parking Operator who is engaged in providing valet services, including but not limited to receiving or discharging passengers or loading or unloading baggage from a vehicle, making arrangements to remove the vehicle to a designated off-street parking facility, parking a vehicle, or otherwise in control of a vehicle subject to valet parking requirements, may engage in such activities unless the Valet Parking Operator is wearing a jacket or shirt clearly marked "VALET" across the back in reflective lettering that shall be highly contrasting with the background/field/screen (i.e. dark-colored reflective lettering on light-colored background or light-colored reflective lettering on dark-colored background); each individual letter of the word "VALET" shall be no smaller than three inches (3") in height. The front of the jacket or shirt worn by the Valet Parking Operator shall include the name of the person, business, establishment, or corporation granted a Valet Parking Permit.

Compliance with these sections shall require the jacket or shirt required in this section to be the outermost garment worn by the Valet Parking Operator.
(Ord. 2004 c. 9)

16-49.4 Enforcement and Penalties.

a. The Boston Transportation Department, including but not limited to the Parking Clerk or his/her designee or agent, and the Boston Police Department shall have the authority to enforce the provisions of CBC 16-49 pursuant to CBC 6-6 and to Article IVA of the Traffic Rules and Regulations of the Boston Transportation Department.

b. Any violation of CBC 16-49 may be subject to a fine of one hundred dollars and no cents (\$100.00), as well as any other parking violation fines and penalties as set forth in CBC 6-6 and in the Traffic Rules and Regulations of the Boston Transportation Department. A penalty of thirty-three dollars and no cents (\$33.00) shall be assessed if the fine remains unpaid twenty-one (21) days after issuance of a notice of such violation.

c. Two (2) or more violations of CBC 16-49 in a calendar year by a Valet Parking Operator may result in the suspension or revocation of the Valet Parking Permit according to the regulations set forth in Section 9 of Article IVA of the Traffic Rules and Regulations of the Boston Transportation Department.

d. No Valet Parking Permit may be renewed, be removed from suspension, or be reinstated following revocation until all fines issued thereunder have been fully satisfied.
(Ord. 2004 c. 9)

16-49.5 Exemptions.

Hotels with uniformed door and valet services shall be exempt from the requirements of these sections. Addresses/buildings that are wholly residential with uniformed door and valet services shall be exempt from the requirements of these sections.
(Ord. 2004 c. 9)

16-49.6 Applicability.

If any provision of these sections imposes greater restrictions or obligations than those imposed by any

other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.
(Ord. 2004 c. 9)

16-49.7 Regulatory Authority.

The Boston Transportation Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.
(Ord. 2004 c. 9)

16-49.8 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2004 c. 9)

16-49.9 Implementation.

The provisions of these sections shall be effective immediately, but no penalties are authorized until the sooner of (a) Boston Transportation Department's approval of a Valet Parking Permitholder's application for or renewal of a Valet Parking Permit or (b) July 1, 2005.
(Ord. 2004 c. 9)

16-50 AFTER-HOURS PARTIES.

16-50.1 Purpose.

The incidences of gatherings known as "House Parties" or "After-Hours Parties" which typically occur in the late-night and early-morning hours have a history of disturbing residents of the City of Boston, but they have recently begun to attract violence into neighborhoods. The Boston Police Department has instituted "Operation Party Time" and other programs as direct responses to these disturbances and acts of violence. These sections are intended to provide the authorities with some legislative tools including civil penalties and fines, to assist the Boston Police Department with its efforts to stop such parties in progress and prevent future occurrences of them to enhance the public safety of the City of Boston and to improve the quality of life in the neighborhoods of the City of Boston.
(Ord. 2005 c. 5)

16-50.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in CBC 16-50.

After-hours party means an unpermitted or unlicensed gathering of individuals at a residential dwelling unit after 11:00 PM at which money is collected as an admission charge and at which alcohol is served.

BPD means the Boston Police Department.

City means the City of Boston.

Occupant means any invitee, licensee, lessee, or tenant in a residential dwelling unit, including but not limited to a house, a condominium, or an apartment.

Owner means any person or entity that owns a residential dwelling unit, including but not limited to a house, a condominium, or an apartment. (Ord. 2005 c. 5)

16-50.3 Prohibitions.

The prohibitions and fines in this section shall supplement any and all other civil and/or criminal penalties allowed by law, ordinance, code, or regulation, specifically including, but not limited to CBC 16-26.

a. No occupant of a residential dwelling unit shall organize, host, manage, promote, facilitate, suffer, or allow the occurrence of an after-hours party. Each and every violation of this provision shall be subject to a fine of three hundred (\$300.00) dollars.

b. No owner of a residential dwelling unit shall organize, host, manage, promote, facilitate, suffer, or allow the occurrence of an after-hours party. Each and every violation of this provision shall be subject to a fine of three hundred (\$300.00) dollars except in the event of an off-site owner/landlord in which case the off-site owner/landlord shall be issued a written notice of violation/warning for a first incident and shall be subject to the fine in this sub-section for the second such violation and for each and every violation thereafter.

c. No person shall serve alcohol or otherwise act as a bartender during or at an after-hours party.

Each and every violation of this provision shall be subject to a fine of three hundred (\$300.00) dollars.

d. No owner or occupant shall hire, employ, encourage, manage, facilitate, suffer, or allow a person to serve alcohol or otherwise act as a bartender during or at an after-hours party. Each and every violation of this provision shall be subject to a fine of three hundred (\$300.00) dollars except in the event of an off-site owner/landlord in which case the off-site owner/landlord shall be issued a written notice of violation/warning for a first incident and shall be subject to the fine in this sub-section for the second such violation and for each and every violation thereafter.

e. No person shall collect money in advance of, during, or at an after-hours party for admission to an after-hours party. Each and every violation of this provision shall be subject to a fine of three hundred (\$300.00) dollars.

f. No owner or occupant shall hire, employ, encourage, manage, facilitate, suffer, or allow a person to collect money in advance of, during, or at an after-hours party for admission to an after-hours party. Each and every violation of this provision shall be subject to a fine of three hundred dollars (\$300.00) except in the event of an off-site owner/landlord in which case the off-site owner/landlord shall be issued a written notice of violation/warning for a first incident and shall be subject to the fine in this sub-section for the second such violation and for each and every violation thereafter.

g. No person, commonly referred to as a "DJ," shall deploy or use any electric, electronic, technical, computer, or other audio equipment to provide musical entertainment at an after-hours party in a manner that violates the unreasonable noise ordinances of the City of Boston. Each and every violation of this provision shall be subject to a fine of three hundred (\$300.00) dollars. Any electric, electronic, technical, computer, or other audio equipment to provide musical entertainment at an after-hours party may be confiscated by the Boston Police Department and may be retrieved only upon the full payment of any fine issued pursuant to this subsection and upon the full payment of a storage fee in the amount of twenty (\$20.00) dollars per day or portion thereof that the equipment is stored.

h. No owner or occupant shall hire, employ, encourage, manage, facilitate, suffer, or allow a person, commonly referred to as a "DJ," to deploy or use any electric, electronic, technical, computer, or other amplified audio equipment to provide musical entertainment at an after-hours party in a manner that violates the unreasonable noise ordinances of the City of Boston. Each and every violation of this provision shall be subject to a fine of three hundred (\$300.00) dollars except in the event of an off-site owner/landlord in which case the off-site owner/landlord shall be issued a written notice of violation/warning for a first incident and shall be subject to the fine in this sub-section for the second such violation and for each and every violation thereafter.

i. No person shall purchase or procure alcohol for service or sale at an after-hours party. Each and every violation of this provision shall be subject to a fine of three hundred (\$300.00) dollars.
(Ord. 2005 c. 5)

16-50.4 Applicability.

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.
(Ord. 2005 c. 5)

16-50.5 Regulatory Authority.

The Commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.
(Ord. 2005 c. 5)

16-50.6 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2005 c. 5)

16-50.7 Implementation.

The provisions of these sections shall be effective immediately upon passage and all provisions shall be

enforced immediately but no monetary fine shall be imposed pursuant hereto until thirty (30) days after passage.

(Ord. 2005 c. 5)

16-51 CRACK PIPES.

16-51.1 Prohibition Against Sale.

No person shall sell or display for sale a device used to smoke freebase or crack cocaine known as a "crack pipe." A crack pipe is generally made from a small glass tube that is on average, four inches (4") to five inches (5") long and approximately one-quarter inch ($\frac{1}{4}$ ") in diameter and is sometimes referred to as a "stem," "horn," "blaster," or "straight shooter." Crack pipes sometimes contain a small paper flower and may be promoted as a romantic gift with the buyers usually requesting a "rose" or a "flower."
(Ord. 2007 c. 4)

16-51.2 Prohibition Against Possession.

No person shall possess a device used to smoke freebase or crack cocaine known as a "crack pipe." A crack pipe is generally made from a small glass tube that is on average, four inches (4") to five inches (5") long and approximately one-quarter inch ($\frac{1}{4}$ ") in diameter and is sometimes referred to as a "stem," "horn," "blaster," or "straight shooter." Crack pipes sometimes contain a small paper flower and may be promoted as a romantic gift with the buyers usually requesting a "rose" or a "flower."
(Ord. 2007 c. 4)

16-51.3 Penalty.

A violation of these sections shall be punished by a fine in the amount of three hundred (\$300.00) dollars. Each and every crack pipe shall be considered to be a separate and distinct violation.
(Ord. 2007 c. 4)

16-51.4 Implementation.

The provisions of these sections shall be effective immediately upon passage.
(Ord. 2007 c. 4)

16-52 MAINTENANCE OF VACANT, FORECLOSING RESIDENTIAL PROPERTIES.

16-52.1 Purpose.

a. It is the intent of this section to protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by (i) requiring all residential property owners, including lenders, trustees, and service companies, to properly maintain vacant and/or foreclosing properties; (ii) regulating the maintenance of vacant and/or foreclosing, residential properties to prevent blighted and unsecure residences.

b. The Commissioner of the Inspectional Services Department has enforcement authority pursuant to, inter alia, M.G.L. c. 143, s. 3, the State Building Code, and the Zoning Code of the City of Boston.
(Ord. 2008 c. 1)

16-52.2 Definitions.

When used in this section, unless a contrary intention clearly appears, the following terms shall have the following meanings:

City means City of Boston.

Commissioner means Commissioner of the Inspectional Services Department.

Days means consecutive calendar days.

Foreclosing means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

Initiation of the foreclosure process means taking any of the following actions: (i) taking possession of a residential property pursuant to M.G.L. c. 244, s. 1; (ii) delivering the Mortgagee's notice of intention to foreclose to the borrower pursuant to M.G.L. c. 244, s. 17B; or (iii) commencing a foreclosure action on a property in either the Land Court or Suffolk Superior Court.

Local means within twenty (20) driving miles distance of the property in question.

Mortgagee means the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

Owner means every person, entity, service company, property manager or real estate broker, who alone or severally with others:

1. Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or

2. Has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or

3. Is a mortgagee in possession of any such property; or

4. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or

5. Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, this ordinance shall not apply to a Condominium Association created pursuant to M.G.L. c. 138A to the extent that such Association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the Association. *Owner* also means every person who operates a rooming house; or

6. Is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

Property means any real, residential property, or portion thereof, located in the City of Boston, including building or structures situated on the

property. For purposes of this section only, property does not include property owned or subject to the control of the City or any of its' governmental bodies. Such property includes, but is not limited to, property owned or controlled by the Boston Redevelopment Authority, Boston Housing Authority, and Department of Neighborhood Development.

Residential property means any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

Securing means measures that assist in making the property inaccessible to unauthorized persons.

Vacant means any property not currently legally occupied and not properly maintained or secured. (Ord. 2008 c. 1)

16-52.3 Registration of Vacant and/or Foreclosing Residential Properties; Duty to Provide Written Notice of Vacant, Residential Property and/or Mortgage Foreclosure.

a. All owners must register vacant and/or foreclosing residential properties with the Commissioner of the Inspectional Services Department on forms provided by the Commissioner. All registrations must state the individual owner's or agent's phone number and mailing address located within the Commonwealth as required by M.G.L. c. 59, s. 57D, M.G.L. c. 156D, s. 5.02, and 950 CMR 113.20. The mailing address may not be a P.O. Box. This registration must also certify that the property was inspected and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant must designate and retain a local individual or local property management company responsible for the security and maintenance of the property. This designation must state the individual or company's name, phone number, and local mailing address. The mailing address may not be a P.O. Box. If the property is in the process of foreclosure, then the registration must be received within seven days of the initiation of the foreclosure process as defined in CBC 16-52.2. If the Commissioner determines that the property is vacant and that foreclosure proceedings have not been initiated, the registration must be received within fourteen days of the Commissioner's first citation for improper maintenance.

b. All property registrations are valid for one (1) calendar year. An annual registration fee of one-hundred dollars and no cents (\$100.00) must accompany the registration form. Subsequent annual registrations and fees are due within thirty (30) days of the expiration of the previous registration and must certify whether the foreclosing and/or foreclosed property remains vacant or not.

c. Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice and proof of occupancy to the Commissioner of the Inspectional Services Department.

d. The Inspectional Services Department shall maintain a list of properties registered pursuant to this section and make it available to the public upon request. The list of registered properties shall also be made accessible through the City of Boston's website and updated as practicable. (Ord. 2008 c. 1; Ord. 2010 c. 7)

16-52.4 Maintenance Requirements.

a. Properties subject to this section must be maintained in accordance with the relevant Sanitary Codes, Building Codes, and local regulations concerning external and/or visible maintenance. The owner, local individual or local property management company must inspect and maintain the property on a monthly basis for the duration of the vacancy.

b. The property must contain a posting with the name and twenty-four (24)-hour contact phone number of the local individual or property management company responsible for the maintenance. The sign must also indicate the name, address and telephone number of the property owner and the owner's authorized agent for the purpose of service of process. This sign must be posted on the front of the property so it is clearly visible.

c. When a building is vacant, unguarded, and open to unauthorized entry, all building openings must be closed, secured and protected as follows:

1. When a building is vacant, all building openings shall be closed and secured to prevent entry by unauthorized persons in a manner not inconsistent with rules and regulations issued by the Inspectional Services Department for securing vacant buildings.

2. For a building that is determined by the Inspectional Services Department to be chronically or habitually violated or upon any renewal of the registration statement required in CBC 16-52.3, the property owner must implement and provide proof satisfactory to the Inspectional Services Department that, in addition to complying with the security standards set forth elsewhere in this section, said building either: (i) contains all of the security features set forth in subparagraph (a) below, or (ii) is unviolated, as described in subparagraph (b) below:

(a) Every opening larger than one (1) square foot in area that is located less than eight (8) feet above the ground or that is accessible from ground level or within eight (8) feet in any direction of an exterior stairway, fire escape or other means of access shall be secured using practices and materials approved by the Inspectional Services Department and the office of the City Fire Marshal, including but not limited to stainless steel plates or shutters, steel mesh grates, lexan panels and concrete blocks.

(b) For purposes of this section only, the term "unviolated" shall refer to a building: (i) that has a permanent door or window, as applicable, in each appropriate building opening and that has each such door or window secured to prevent unauthorized entry and (ii) that has all its door and window components, including without limitation frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes, intact and unbroken. A building that does not meet the definition of "unviolated" shall be deemed "violated".

(c) It shall be a violation of this section for a vacant building to become violated, if the owner has otherwise represented proof to the Inspectional Services Department that such building is unviolated. With respect to a vacant building represented by the owner as unviolated, if the Commissioner determines, based on an inspection by the Inspectional Services Department or a report prepared by another city agency and provided to the Inspectional Services Department, that such building is violated, the Commissioner shall send by certified mail a written notice of violation to the person responsible for the day-to-day supervision and management of the building or to the authorized agent for service of process as identified on the sign required by CBC 16-52-4b, or if there is no such sign, then sent by

certified mail to the owner of record. Within thirty (30) days of the mailing of such notice of violation, the owner shall be required to comply with CBC 16-52.4c.

d. Adherence to this section does not relieve the owner of any applicable obligations set forth in Code regulations, Covenant Conditions and Restrictions and/or Home Owners Association rules and regulations.
(Ord. 2008 c. 1; Ord. 2010 c. 7)

16-52.5 Inspections.

The Inspectional Services Department shall have the authority and the duty to inspect properties subject to this section for compliance and to issue citations for any violations. The Inspectional Services Department shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that this section is enforced.
(Ord. 2008 c. 1)

16.52.6 Enforcement and Penalties.

a. Failure to initially register with the Commissioner is punishable by a fine of three hundred dollars and no cents (\$300.00).

b. If applicable, failure to properly identify the name of the local individual or local property management company is punishable by a fine of three hundred dollars and no cents (\$300.00).

c. Failure to maintain the property is punishable by a fine up to three hundred dollars and no cents (\$300.00) for each week the property is not maintained.

d. All monies collected pursuant to this section shall be directed to a specific Inspectional Services Department enforcement fund.
(Ord. 2008 c. 1)

16-52.7 Appeal.

Any person aggrieved by the requirements of this section may seek an administrative appeal to the Inspectional Service Department. Any person aggrieved by a final decision issued under this section

by the Inspectional Services Department, may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.
(Ord. 2008 c. 1)

16-52.8 Applicability.

If any provision of this section imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, by-law, order, or policy then the provisions of this section control.
(Ord. 2008 c. 1)

16-52.9 Regulatory Authority.

The Commissioner of the Inspectional Services Department has the authority to promulgate rules and regulations necessary to implement and enforce this section. These rules may allow for additional materials which may be used to secure a building, pursuant to the requirements set forth in CBC 16-52.4, if proof is provided, satisfactory to the Commissioner, that such materials will perform in a manner equivalent to, or better than, the materials specified herein.
(Ord. 2008 c. 1; Ord. 2010 c. 7)

16-52.10 Severability.

If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2008 c. 1)

16-52.11 Implementation.

The provisions of this section are effective immediately upon passage and all provisions shall be enforced immediately but no monetary fine shall be imposed pursuant hereto until ninety (90) days after passage.
(Ord. 2008 c. 1)

16-52.12 Notice.

A copy of this ordinance is to be mailed to all owners of residential property located in the City of Boston. In addition, a copy of this ordinance is to be mailed to all loan institutions, banks, real estate

offices, and management companies located in and/or having legal or equitable interest in residential property located in the City of Boston.
(Ord. 2008 c. 1)

16-53 CLEANING OF COMMERCIAL COOKING HOOD AND VENTILATION SYSTEMS.

16-53.1 Purpose.

The purpose of this ordinance is to establish requirements for the inspection of grease buildup and for the cleaning of hoods, grease removal devices, fans, ducts and cooking equipment by commercial contractors for said services.
(Ord. 2008 c. 2)

16-53.2 Applicability.

This ordinance shall apply to all existing structures subject to inspection and review by the City of Boston's Inspectional Services and Fire Departments. The Commissioners of the Boston Fire Department and the Inspectional Services Department may promulgate any additional rules and/or regulations under the scope of this ordinance as needed.
(Ord. 2008 c. 2)

16-53.3 Procedures.

a. *Certification and Registration.*

1. Any person offering their services to inspect for grease buildup or to clean commercial cooking hood and ventilation systems, whether as an outside contractor or as a business providing the service to itself, shall be certified as a qualified inspector or commercial cooking hood and ventilation system cleaner respectively. Each individual of a company engaged in the cleaning or inspecting for grease buildup of commercial cooking hood and ventilation systems must obtain certification prior to engaging in cleaning or inspection services. Each company engaged in the cleaning or inspecting for grease buildup of commercial cooking hood and ventilation systems must employ enough certified technicians to maintain a minimum of one certified technician during cleaning operations at each cleaning site. For purposes of this section only, "certified"

shall mean that a person has met all of the requirements of a Boston Fire Department approved certifying agency's training program and/or certification exam.

2. The Boston Fire Department shall publish a list of accepted certifying agencies. In addition to registration requirements in CBC 16-53.3a.3. obtaining certification from one of these agencies will meet the requirements of this ordinance. Only those individuals registered and certified as being qualified to inspect for grease buildup or to clean commercial cooking hood and ventilation systems will be authorized to perform those respective services regulated under this ordinance within the City of Boston.

3. Each individual offering to provide services within the City of Boston to inspect for grease buildup or to clean commercial cooking hood and ventilation systems shall also register with the Boston Fire Department, Fire Prevention Division upon obtaining their certification. An annual application for registration authorizing inspection and/or cleaning services within the City of Boston must be accompanied by the proof of certification, and an annual application fee of twenty-five (\$25.00) dollars. Upon approval of the application by the Boston Fire Department, an individual and/or company will be considered authorized to conduct cleaning and/or inspection services within the City of Boston. Registration will expire at the end of each calendar year and shall require annual renewal.

4. It is the responsibility of the individual to keep their certification active.

5. Any loss or expiration of certification must be reported to the Boston Fire Department within five (5) days of loss of said certification.

6. After registration, any changes in employment, as well as other application data must be reported to the Boston Fire Department within five (5) days of the change.

7. Each year the Fire Department will publish a roll of registered cleaners and inspectors on the first day of February.

8. Failure to follow the requirements of this ordinance, failure to maintain certification, failure

to renew registration, or if inspecting and/or cleaning is deemed not in accordance with NFPA 96 as referenced by 527 CMR 11.00, may result in fines and/or the revocation of registration to inspect for grease buildup or to clean commercial cooking hood and ventilation systems within the City of Boston.

b. Inspection and Cleaning of Commercial Cooking Hood and Ventilation Systems.

1. *Inspection Frequency.* Commercial cooking hood and ventilation systems and cooking equipment shall be inspected by a certified inspector or cleaner for grease buildup in accordance with the inspection schedule of NFPA 96 as referenced by 527 CMR 11.00.

2. *Cleaning Frequency.* A certified person shall clean to bare metal, hoods, grease-removal devices, fans, ducts, cooking equipment, and other appurtenances. The person to perform the actual cleaning shall be certified in the cleaning of commercial cooking hood and ventilation systems. The cleaning schedule shall be at the same interval as the inspection schedule prescribed in NFPA 96 as referenced by 527 CMR 11.00.

3. *Signage.* Following inspection and/or cleaning, the certified person providing such services shall place or display within the kitchen area, a label indicating the date inspected and/or cleaned, the name of the servicing company (company certification number and individual's name and certification number) and their Fire Department registration number. It shall also indicate areas not inspected and/or cleaned and the reason why the service could not be performed, and if it is scheduled to be performed at another date. The label shall be attached to the exterior of the hood in a visible location. The schedule for the inspecting and/or cleaning frequency shall be maintained on site and available for viewing upon request of Fire Department and Inspectional Services inspectors.

4. *Reports.* Reports associated with the inspection and/or cleaning of the hood and vent system shall be maintained on site by the business owner. These reports shall be available for viewing upon request of an inspector from the Inspectional Services or Boston Fire Departments.

c. Inspection and Cleaning for Solid-Fuel Cooking.

1. Solid-fuel cooking appliances shall be inspected, cleaned and maintained in accordance with the procedures outlined in NFPA 96, Solid-Fuel Cooking Operations as referenced by 527 CMR 11.00.

d. Deficiency Reports. In addition to any requirements outlined in NFPA 96, as referenced by 527 CMR 11.00, if any required cleaning or inspection is incomplete or unable to be performed for any reason, the certified person providing such services shall provide a written report to the Boston Fire Department within five (5) days of said failure to clean and/or inspect. Said report shall provide the following information: (i) the physical address at which inspection and/or cleaning were unable to occur; (ii) the name of the owner of said premises; (iii) the date on which the certified person attempted to inspect and/or clean the premise; and (iv) the specific reason why the service could not be performed pursuant to NFPA 96 standards.
(Ord. 2008 c. 2)

16-53.4 Penalties.

a. Violation of the conditions of this ordinance whether by the proprietor of the establishment, property owner, or the hood cleaning/inspecting company shall subject the violator to a fine of two hundred (\$200.00) dollars per day payable to the Boston Fire Department. Each day of violation shall constitute a separate and distinct offense. Revenues collected from said fines shall be used to educate and train Boston Fire Department and Building Inspectors on NFPA 96.

b. Notwithstanding the above, the Commissioner of ISD, upon a determination that any violation constitutes an immediate and severe threat to the public health and safety, may order the immediate closure of any premises, without prior notice and hearing but otherwise with subsequent notice and hearing.
(Ord. 2008 c. 2)

16-53.5 Effective Date.

The provisions of these sections shall become effective within 365 days of its passage.
(Ord. 2008 c. 2)

16-54 PROHIBITION AGAINST SALVIA DIVINORUM.

16-54.1 Sale Prohibited.

No person shall sell, offer for sale or possess Salvia Divinorum or Salvinorin A within the City of Boston.
(Ord. 2009 c. 1)

16-54.2 Exception.

The provisions of this section shall not apply to any drug product approved by the United States Food and Drug Administration that contains Salvia Divinorum or Salvinorin A.
(Ord. 2009 c. 1)

16-54.3 Fines.

A violation of these sections shall be punished by a fine in the amount of three hundred dollars and no cents (\$300.00).
(Ord. 2009 c. 1)

16-54.4 Enforcement.

The Boston Police Department shall have the authority to enforce these provisions and shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.
(Ord. 2009 c. 1)

16-55 UNPAID MUNICIPAL FINES.

In accordance with M.G.L. c. 40U, adopted by the City Council on May 14, 2010,

a. The procedures for the collection of unpaid municipal fines, as set out by M.G.L. c. 40U, are hereby adopted.

b. This ordinance covers the enforcement of ordinances designated for enforcement under the provisions of M.G.L. c. 40, s. 21D by the Commissioner of the Inspectional Services Department.

c. The City of Boston shall assess an additional ten (\$10.00) dollar processing fee on any fine which remains unpaid and unappealed at the expiration of twenty-one (21) days following the issuance of the citation.

d. Any fine which remains unpaid for thirty (30) days after the second notice as required by M.G. L. c. 40U shall be subject to an additional penalty of ten (\$10.00) dollars.

e. Thereafter, any fine and additional penalties may become an additional assessment on the property owner's tax bill and a lien on the property to which the violation relates.
(Ord. 2010 c. 8)

16-56 PENALTIES FOR VALID COMPLAINT PROBLEM PROPERTIES.

(a) *Definitions.*

Police response shall mean any and all police action deemed appropriate by the Police Commissioner to protect the health, safety and welfare of inhabitants of a property or location where valid complaints have been documented. Coordination of police action shall be subject to the rules and regulations of the police department.

Problem property shall have the same meaning as set forth in section 16-57.2.

Valid complaint shall refer to an investigated finding, documented by on-duty police department personnel dispatched or caused to respond to an incident, that a criminal offense has taken place in a dwelling unit within a property, on a particular property or at a specific location which disturbs the health, safety and welfare of other inhabitants of said property or location. The term shall not include incidents involving an occupant of the premises as the victim of the crime.

(b) *Police Response.* The Police Commissioner, as deemed appropriate to protect the health, safety, and welfare of other inhabitants of a property or location where a valid complaint has been made, is hereby authorized and empowered to assign a member or members of the police department to staff as police response on said property or location;

(i) Upon being dispatched or caused to respond to an incident, in a dwelling unit within a property, on a particular property or at a specific location, involving a criminal offense, police department personnel shall investigate the complaint to determine whether it is a valid complaint;

(ii) Upon finding a valid complaint, police department personnel shall make a record of the incident and shall keep, within the department's control, a record of the number of incidents which occur in said dwelling unit within a property, particular property or location;

(iii) After four (4) valid complaint incidents have occurred in a twelve (12)-month period relating to the occupancy of a dwelling unit within a property, on a particular property or at a specific location, the Police Commissioner, or his designee, may notify the Chair of the Mayor's Task Force on Problem Properties and shall submit to the Chair the all-calls report relating to police response at said dwelling, particular property or location.

(c) *Duties of the Task Force.*

(i) The Chair shall create a master file of all information received from the Commissioner pertaining to that dwelling unit, particular property or location and shall discuss said information with the members of the Task Force at a monthly meeting held at City Hall;

(ii) If a specific address falls within the definition of a problem property, the Chair of the Task Force shall notify, in writing, the property owner by regular and certified mail, return receipt requested, sent to the property owner's residence or usual place of business that is on record at the assessor's office. The Task Force notification shall identify:

a. The property owner and list the specific address that has been designated a problem property;

b. The number of valid complaint incidents which have occurred on said property within a twelve (12)-month period;

c. The Boston Police District Captain the property owner may contact to coordinate a plan to resolve the incidents at the particular property or location, and/or inform the Boston Police of problem occupant(s);

d. Where and to whom the property owner must address a letter of appeal of the Task Force's decision.

(iii) In making a final designation of a property as a problem property, the Chair of the Task Force shall take into consideration the nature of the complaints, the number of dwelling units at the property, and the nature of the use of said property.

(iv) Upon receipt of confirmation from the Police Commissioner, or his designee, that the owner of a particular property deemed problematic has cooperated with the Boston Police Department in addressing each specified valid complaint, the Task Force shall remove said property from designation as a problem property.

(d) Cost of Police Response Assigned to Problem Properties.

(i) The Police Commissioner, or his designee, shall keep an accurate record of the cost of police response to a dwelling unit within a property, a particular property or a specific location, and such record shall include the number of officers who are part of the determined response;

(ii) The Police Commissioner shall forward such record to the Collector-Treasurer;

(iii) After eight (8) valid complaint incidents in a twelve (12)-month period relating to occupants of a dwelling unit within a property, a particular property or a specific location, the Police Commissioner, at his discretion, shall determine

whether the cost of a police response should be assessed to the property owner and shall notify and submit said determination to the Chair of the Task Force;

(iv) The Chair of the Task Force shall notify, in writing, the property owner of the Commissioner's decision to assess the cost of the police response. The Task Force notification shall:

a. Be delivered by regular and certified mail, return receipt requested, sent to the property owner's residence or usual place of business that is on record at the assessor's office;

b. Identify the number of valid complaint incidents that have occurred since the first notification;

c. Where appropriate, inform the property owner of his failure to contact the Boston Police District Captain to coordinate a plan to resolve the incidents at a dwelling unit within a property, particular property or location, and/or inform the Boston Police of problem occupant(s);

d. Inform the property owner that he shall be subject to the penalties addressed in subsection (e);

e. Indicate where and to whom the property owner must address a letter of appeal of police response costs assigned to him;

f. Inform the property owner he has seven (7) days to file an appeal;

(v) The Police Commissioner should consider the following factors in making his decision to assess costs:

a. The nature, scope, and seriousness of the incident(s);

b. Whether the incident(s) resulted in an arrest;

c. A history of criminal activity taking place at the property or location;

d. The property owner's, and occupant's, willingness to cooperate with police;

e. The total number of properties owned by the property owner relative to the number of said properties deemed problematic.

(vi) Nothing in this ordinance shall limit the statutory authority of the Police Commissioner to investigate crimes, allocate police resources and enforce the laws of the Commonwealth of Massachusetts and the City of Boston.

(e) *Penalties.*

(i) The Collector-Treasurer is hereby authorized and empowered to bill the property owner for the costs the City incurred for its police response in addition to any incidental costs during the period of police response to the particular property or location. The property owner is responsible for payment of the bill in full within thirty (30) days of receiving the bill. All amounts collected by the Collector-Treasurer shall be deposited into the general fund of the City;

(ii) Any unpaid bill for police response, including interest and/or collection costs, shall be added to the real estate tax on the property and collected as part of that tax. Failure to pay real estate taxes will render the property owner delinquent and the Collector-Treasurer shall commence foreclosure proceedings.

(f) *Property Owner's Rights.*

(i) The property owner may, within seven (7) days of receipt of the Task Force's notification, appeal the Commissioner's decision to assess costs by requesting, in writing, a hearing before a three (3) person panel appointed by the Mayor;

(ii) A three (3) person panel appointed by the Mayor shall be assembled as follows:

a. At least one (1) member shall be a nominee of the Greater Boston Real Estate Board;

b. One (1) seat on the panel shall be appointed to a member of a neighborhood crime

watch, a member of a neighborhood association and a member of a community development corporation, who shall rotate in their service on the panel;

c. The third member shall be a resident of the City of Boston.

(iii) Once the panel makes a decision it must be in writing. If the panel finds in favor of the property owner, the cost of the penalty shall be abated.

(g) *Eviction.* In the event the property owner has, in good faith, commenced eviction proceedings against the tenant(s) responsible for the incidents at the property, then the application of this ordinance shall be stayed until the eviction process is concluded. The Police Commissioner of the department may continue police response at the particular property or location, at his discretion, at all times after the eviction proceeding has been completed; provided, however, that such costs shall not be assessed to the property owner if the eviction proceedings conclude in favor of the property owner.

(h) *Charges to Constitute Municipal Lien Pursuant to MGL, c. 40, s. 58.* All charges to recover costs imposed in this ordinance shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws, chapter 40, section 58.

(i) *Report.* The Chair of the Task Force shall submit a report to the Mayor and City Council no later than three (3) months after the one (1) year anniversary of the enactment date of this ordinance. This report shall include the total cost of administration of this ordinance, as well as an accounting of all revenues collected in association with it. Said report shall also contain data regarding all dwellings within a property, particular properties or locations which remain problem properties and those that are no longer designated as problem properties. The report shall also include the general impact, if any, that the implementation of this order has had on the health, safety, and welfare of residents of the City of Boston.

(Ord. 2011 c. 9)

16-57 PUBLIC NUISANCE PROPERTIES.**16-57.1 Purpose.**

The purpose of this ordinance is to empower the City to police properties that have become a public nuisance by exhibiting a notorious atmosphere of criminal and other disturbing activity so elevated as to endanger the common good and general welfare of a specific neighborhood or the City in general.
(Ord. 2011 c. 10)

16-57.2 Definitions.

A problem property meets the following criteria:

1. The Police Department has been called to the property not fewer than four (4) times within the preceding twelve (12)-month period for any incident involving any criminal offense including but not limited to disturbing the peace, trespassing, underage drinking or assault; or

2. The Air Pollution Control Commission has received not fewer than four (4) sustained complaints for noise within the preceding twelve (12)-month period; or

3. The Inspectional Services Department or the Public Health Commission have received not fewer than four (4) sustained and upheld complaints within the preceding twelve (12)-month period for noxious, noisome or unsanitary conditions. Provided, however, that in making a final designation of a property as a *problem property*, the Chair of the Task Force shall take into consideration the nature of the complaints, the number of dwelling units at the property, and the nature of the use of said property.

Public nuisance is an unreasonable interference with a right common to the general public, such as a condition dangerous to health, offensive to community moral standards, or that otherwise threatens the general welfare of a neighborhood or the City in general through documented pervasive criminal activity, code violations, or other causes precipitating the deployment of any City resource.
(Ord. 2011 c. 10)

16-57.3 Application.

Any property in the City that is found by the Mayor's Problem Properties Task Force to be a problem property as defined in section 16-57.2 shall constitute a public nuisance. The Chair of the Task Force shall formally communicate to the Mayor, and the Council President, that a property falling within the definition of problem property is a public nuisance. The Chair of the Task Force shall designate the appropriate member of the Task Force to notify the owner of the property by regular and certified mail and the tenants by affixing a notice of the violation to the front door.
(Ord. 2011 c. 10)

16-57.4 Enforcement.

After declaring the problem property a public nuisance, the members of the Task Force heading the originating department or the designee of the Chair of the Task Force shall issue a citation to any or all of the tenants and the owner of the property immediately for perpetuating the public nuisance at the time of any incident requiring the deployment of any City resources or personnel following the property being placed on the problem properties list.
(Ord. 2011 c. 10)

16-57.5 Non-criminal Dispositions.

In accordance with Section 21D of Chapter 40 of the Massachusetts General Laws, the City may pursue a non-criminal disposition of any citation issued for violations under this chapter.
(Ord. 2011 c. 10)

16-57.6 Penalties.

Any tenant residing within or owner of a problem property declared to be a public nuisance cited under this chapter with violations prescribed by the State Sanitary Code or State Building Code shall be fined up to three hundred (\$300.00) dollars for each criminal or non-criminal citation authorized by said codes caused by their acts or omissions subsequent to

the property being added to the problem property list. If the violation is ongoing, each day that the violation persists will constitute a separate violation for which an additional three hundred (\$300.00) dollar fine will be imposed.

(Ord. 2011 c. 10)

16-57.7 Remediation.

Any owner of a property determined to be a problem property shall file a management plan with the Inspectional Services Department, within thirty (30) days of having been deemed a problem property that outlines and verifies the owner's strategy and steps devised to bring the property up to code.

(Ord. 2011 c. 10)

16-57.8 Verifiable and Certified Inspection.

In order for a property to be removed from the problem properties list by the Problem Properties Task Force, an owner must file with the Inspectional Services Department a sworn statement following an inspection certifying that the property is in compliance with the minimum standards of human habitability for a residential dwelling as set forth in the Massachusetts State Sanitary Code, as it may be adopted or amended from time to time. The inspection shall be performed and the sworn statement shall be signed by an Authorized Inspector which shall be defined as a person who (i) is a Commonwealth of Massachusetts Registered Sanitarian or a Commonwealth of Massachusetts Certified Health Officer or a Commonwealth of Massachusetts Certified Home Inspector, (ii) has demonstrated a proficiency in the application of the State Sanitary Code by satisfactorily completing the ISD certificate program for qualifying authorized professionals to perform inspections under section 9-1.3 of the City of Boston Code, and (iii) has been issued a certificate of completion upon payment to ISD of one hundred twenty five (\$125.00) dollars. An authorized inspector shall be prohibited from charging more than one hundred thirty three percent (133%) of the fee charged by the City of Boston for an inspection performed under this section.

This section shall not apply to problem properties which have been designated due to valid police complaints.

(Ord. 2011 c. 10)

16-57.9 Receivership.

Should the owner of a property placed on the problem properties list not respond to the Problem Properties Task Force notification within sixty (60) days, the Inspectional Services Department is authorized to petition the Housing Court for the appointment of a receiver to rehabilitate that property.

(Ord. 2011 c. 10)

16-57.10 Reporting.

The Inspectional Services Department shall, no later than three (3) months after the one (1) year anniversary of the enactment date of this ordinance, dispatch to the Mayor and City Council's Committee on Government Operations, a report on all problem properties that were on the problem properties list during the preceding year.

(Ord. 2011 c.10)

16-58 OVER-THE-AIR DEVICES ("OTARD").

16-58.1 Purpose.

This section is applicable to the installation, maintenance, use or removal of over the air reception devices ("OTARD"), for residential and non-residential properties within the City of Boston,

(Ord. 2012 c. 3)

16-58.2 Definitions.

a. For purposes of this section, the terms "satellite dish" and "antenna" have the same meaning as that provided for by the Federal Communications Commission's rules at 47 C.F.R. 1.4000. *Satellite dish* and *antenna* shall mean such device that is one (1) meter or less in diameter, and is designed to receive broadcast satellite service, including direct-to-home satellite services or to receive or transmit fixed wireless signals via satellite; or receive video programming services via wireless cable or to receive or transmit fixed wireless signals other than satellite; or to receive television broadcast signals. Hereinafter, the terms *satellite dish* and *antenna* shall be referred to collectively as eligible devices.

It is further defined that eligible devices are those actively subscribed or used by OTARD users, and such use and subscription are not effectively terminated or expired.

b. An *OTARD user* is defined as any person who requested the installation of eligible devices or actively subscribed the services via the eligible devices defined in subsection a. The OTARD users, either an individual or legal person, or any combination of both, must have certain leasehold or a proprietary interest in the properties where the eligible devices are installed or used.

The other responsible parties are anyone other than OTARD users, who can be either an individual or legal person, or any combination of both, and who are responsible for maintenance and removal of OTARD devices.

c. An *OTARD installer* is defined as any person who installed eligible devices upon request of OTARD user defined in subsection b. The OTARD installer can be individuals or legal persons or any combination of both. The installers include their affiliate service providers.

d. *Non-use devices* are not eligible devices, and they are not actively subscribed or used by the OTARD users or their use and subscription are effectively terminated or expired.

e. The *Department* means the Inspectional Services Department of the City of Boston.

f. A *unified statement* means a written form approved by the Department, which includes but not limited to the following:

1. The name, address and contact information of OTARD user(s), including the valid contact information of the property owner if the user is not the owner;

2. The name, address and valid contact information of OTARD installers;

3. The street address of the property where the OTARD is installed and approximate location of installation;

4. The statement that the eligible devices installed are actively subscribed and used by OTARD users, and maintained or removed, if use and subscription are effectively terminated or expired by such user(s) or other responsible party, and their valid contact information;

5. If applicable, a statement by OTARD installers or users that there is no alternative location available within the properties without unreasonable increase of cost of installation, use or maintenance or lack of installation will impair the OTARD users ability to receive acceptable quality signals;

6. If applicable, legitimate safety hazard being appropriately addressed;

7. If applicable, any information on existing non-use devices, and their removal status, (Ord. 2012 c. 3)

16-58.3 Installations.

Effective on or after the effective date of this section, no eligible devices can be installed without applicable approval if such installation:

- a. Interferes with historic preservation;

- b. Constitutes a legitimate safety hazard, including but not limited to placing eligible devices within the roofs, hallways, walkways or the exterior walls unless such safety hazard is appropriately addressed. Legitimate safety hazards also include but are not limited to installations around fire escapes, windows; emergency exits or critical utilities infrastructures, which may cause personal injury, death or property damages;

- c. Are not located within the exclusive use or control of OTARD users, including but not limited to roofs, hallways, walkways or exterior walls;

- d. Is between the exterior walls of properties and streets of public travel unless an alternative location(s) impairs or imposes reception of acceptable quality of signal or imposes unreasonable increase of expense or delay. (Ord. 2012 c. 3)

16-58.4 Use and Maintenance.

Effective on or after the effective date of this section, the OTARD user and installers must notify the Department, within thirty (30) days of installation of eligible devices in the unified statement of the party responsible for the maintenance and removal of such devices.

(Ord. 2012 c. 3)

16-58.5 Removal.

a. The installer must use its best efforts to notify the users or other responsible parties about effective expiration or termination of active use or subscription.

b. For any eligible device, installed or already in active use or subscription on or after the effective date of this section, the OTARD installer, user or other responsible party must, within sixty (60) days upon expiration or termination of active use or subscription, remove, at their own cost and expense, the non-use devices from the properties. The removal deadlines in subsections d. and f. shall not be applicable to this subsection.

c. For properties with existing non-use devices, no new eligible devices shall be installed after effective date of this section, unless and until such existing devices are removed or caused to be removed at installers own cost and expenses. If lack of new installation impairs the ability of the OTARD user to receive an acceptable quality signal or imposes an unreasonable increase of expense or delay, the installer must remove the existing non-use devices within ten (10) days of new installation. The deadlines in subsections b., d. and f. shall not be applicable to this subsection.

The user or/and other responsible parties, and installer must work cooperatively, to the best of their ability, to identify and remove such non-use devices.

d. Excluding those described in subsections b. and c., if the existing non-use devices can be reasonably identified by and/or with a particular installer, such installer must remove such devices at their own cost and expenses no later than January 1, 2014.

e. The installers must use the resources available, such as billing, account information and installation and maintenance record, in good faith to make such identification, and must relate such information to users or other responsible parties, and the Department in reasonable fashion.

f. Excluding those described in subsections b., c., and d., if the existing non-use devices cannot be reasonably identified by and/or with a particular installer as described in subsection d., the users or other responsible parties of the properties must remove them at their own cost and expenses no later than January 1, 2015.

(Ord. 2012 c. 3)

16-58.6 Unified Statement.

a. The OTARD user, other responsible parties, and installer must file or notify the Department in unified statement for activities outlined in Sections 16-58.3, 16-58.4 and 16-58.5.

b. The copies of signed unified statements for installation, maintenance and removal, must be provided to the OTARD users, the other responsible parties, and the Department. The OTARD installer must maintain a record of such statement at its office with regular business no less than two (2) years after the effective termination or expiration of use or subscription.

(Ord. 2012 c. 3)

16-58.7 Appropriate City Authority.

a. The Department will assume primary jurisdiction to ensure, among others, legitimate safety objectives in association with installation, use, maintenance and removal of the OTARD devices. The Department shall promulgate rules and regulations if necessary, to implement the provisions of this section.

b. Non-compliance with Sections 16-58.3 and 16-58.5 may constitute violations of applicable State and City building regulations and requirements, and result in applicable enforcement actions.

(Ord. 2012 c. 3)

CITY OF BOSTON CODE - ORDINANCES

CHAPTER XVII

LICENSES AND REGULATIONS AFFECTING CERTAIN TRADES

17-1 LICENSING AND REGULATION OF ABORTIONS AND ABORTION CLINICS.

17-1.1 License Required; Fee; Conditions of License.

No person shall operate an abortion clinic, as hereinafter defined, nor, except in a general hospital, perform or offer an abortion as hereinafter defined, whether or not the same is done for a charge or profit, except under license of the Board of Health and Hospitals issued annually at a fee of one thousand (\$1,000.00) dollars, which license shall be issued upon the condition that the holder thereof comply with such regulations as the Board shall from time to time make, amend and repeal, which regulations shall provide for:

a. Minimum standards for the attendance of qualified professional persons at such abortion or abortion clinic;

b. Equipment and procedures for use in the event of emergency;

c. The administration of Rho-Gam or its medical equivalent to those patients requiring the same, as a part of the established fee for abortion;

d. Pre-abortion counseling and post-abortion examination of patients without charge to the patient beyond the established fee for abortion;

e. Periodic inspection of the premises by the Board; and

f. Such other regulations as to the Board appear necessary for the health and safety of patients. (Ord. 1976 c. 14 § 1) Penalty, see subsection 17-1.3

17-1.2 Definitions.

As used in this section:

Abortion shall mean the intentional administration of any drug or substance, or of any surgical, mechanical, or manual process, or of any regimen, exercise, or procedure causing, or likely to cause, the destruction of the life of an unborn child or the expulsion or removal from the womb of an unborn child or fetus, other than for the principal purpose of producing a live birth or the removing of an already dead fetus.

Abortion clinic shall mean a place, other than a clinic operated by and within a general hospital, where abortions are offered or performed, whether or not the same is done for charge or profit, and whether or not such place would otherwise be described or termed a clinic.

(Ord. 1976 c. 14 § 1)

17-1.3 Violations.

Every person violating this section, or assisting another in the violation of this section shall be punished by a fine of two hundred (\$200.00) dollars, and for the purposes of this section, each abortion offered or performed, and each day any abortion clinic is in operation shall constitute a separate offense.

(Ord. 1976 c. 14 § 1)

17-1.4 Time Allowed for Compliance.

Notwithstanding the provisions of Subsection 2-12.3, this ordinance shall be published by the action of the City Council in passing the same, and shall be in effect upon passage except that abortion clinics in operation on the effective date hereof shall not be required to obtain a license hereunder until the sixtieth day following passage.

(Ord. 1976 c. 14 § 2)

17-2 GASOLINE SERVICE STATIONS.**17-2.1 Requiring Compressed Air and Water at Service Stations.**

Persons engaged in the business of selling gasoline or other fuel for motor vehicles at retail in the City of Boston shall, during the hours they are so engaged, have compressed air and water available for the use of motorists.

(Ord. 1979 c. 31 § 1) Penalty, see subsection 17-2.2

17-2.2 Violations.

Any person violating this section shall be punished by a fine not exceeding fifty (\$50.00) dollars for each offense. Failure to have such air and water available during the hours of any one day when such person is selling such gasoline or other fuel at retail shall be one offense.

(Ord. 1979 c. 31 § 2)

17-2.3 Gasoline Prices.

No person engaged in the sale of gasoline by pump shall display or suffer the display of the price thereof by sign or other marking located at or near the premises upon which such person is so engaged unless such sign or other marking or a similar sign or other similar marking is attached to the pump or pumps to which said price applies, or, unless such sign or other marking clearly indicates the pump or pumps to which said price applies.

(CBC 1975 Ord. T14 § 351; Renumbered by Ord. 1991 c. 5 § 41) Penalty, see subsection 16-32.1

17-3 HAYMARKET-BLACKSTONE MARKET.**17-3.1 Market Area Designated.**

There shall be designated in downtown Boston an area known as the Haymarket-Blackstone Market which shall consist of Blackstone Street from North to Hanover; North Street from Blackstone to Union; Hanover Street from Blackstone to Union but not including Union Street or any other street within that area but shall include only these streets for market purposes.

(Ord. 1978 c. 6 § 1)

17-3.2 Hours That Sales Are Permitted.

Vendors shall be licensed by the City of Boston Health and Hospitals Department and shall be allowed on the above streets from 8:00 a.m. to 12:00 midnight, Fridays and Saturdays.

(Ord. 1978 c. 6 § 2) Penalty, see subsection 16-32.1

17-3.3 Authority of Health Division.

The City of Boston Health and Hospitals Department, Health Division, shall determine who are proper persons to be licensed and what portion of said Haymarket-Blackstone area they shall be assigned to.

(Ord. 1979 c. 6 § 3)

17-3.4 Licenses Issued by the Commissioner of Public Works.

Subject to Section 5 of the rules and regulations of the Department of Public Works, effective as of January 1, 1955, the Commissioner of Public Works may issue sidewalk or street licenses for the market area delineated in the above section on any other day but not excluding Friday and Saturday except that on Friday and Saturday sidewalk and street licenses may be issued to that portion of the street not already assigned to a licensed pushcart vendor.

(Ord. 1978 c. 6 § 4)

17-3.5 Additional Charges for Services Rendered by City.

a. *Charges Imposed.* Each licensee holding a license under any provision of law to use or occupy a street or sidewalk in the historic Haymarket-Blackstone Market, as defined in City of Boston Ordinances, Title XVII, subsection 17-3.1, shall pay to the City in each fiscal year a charge, in addition to any licensing fee imposed, for services rendered or work performed by the City for that class of persons who are such licensees to clean up and dispose of commercial refuse and garbage in said Market. Said charge shall be imposed for each such license held and shall be fixed by the Commissioner of Public Works, under the authority of St. 1949, c. 222, as the Commissioner in his discretion may determine; provided, however, that said charge shall not be greater than one thousand (\$1,000.00) dollars for each such license held in any fiscal year; and provided further, that said Commissioner shall fix the charge to

be paid for each such license held based upon the actual costs incurred by the City for such clean up and disposal in the preceding fiscal year and upon the number of licenses held by the licensees in said class.

b. *Time for Payment.* Said charge shall be paid to the City by each licensee in said class no later than thirty (30) days after the day on which said Commissioner has sent notice to said licensees of the charge fixed by him.

c. *Failure to Pay.* If a licensee fails to pay a charge authorized by this subsection within the time specified in paragraph b. hereof, the licensing authority is hereby authorized to revoke or suspend any license granted and, in its discretion, may refuse to issue any subsequent license until any charge authorized herein has been paid.
(Ord. 1992 c. 8 §§ 1-3)

17-4 JUNK DEALERS, WEIGHERS AND MEASURERS.

17-4.1 Licenses.

The Police Commissioner of the City of Boston may license suitable persons to be collectors of, or dealers in and keepers of shops for the purchase, sale, or barter of, junk, old metals, or second-hand articles.
(Ord. May 6, 1839; Rev. Ord. 1961 c. 28 § 1; G.L. c. 140 § 54; CBC 1975 Ord. T14 § 400)

Cross-references:

Section 11-1; ss 16-24.1.

17-4.2 Record of Purchases to be Kept; Inspection.

Every shop-keeper shall keep a book, in which shall be written, at the time of every purchase of any such article, a description thereof, and the name, age, and residence of the person from whom, and the day and hour when, such purchase was made; and the shop of such shopkeeper, and all articles of merchandise therein, and such book shall at all times be open to the inspection of the Mayor, the City Council, the Police Commissioner, or of any person by them respectively authorized to make such inspection.

(Rev. Ord. 1961 c. 28 § 2; CBC 1975 Ord. T14 § 401) Penalty, see subsection 16-32.1

17-4.3 Signs.

Every such shop-keeper shall put in some suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters.

(Rev. Ord. 1961 c. 28 § 3; CBC 1975 Ord. T14 § 402) Penalty, see subsection 16-32.1

17-4.4 Sales Restricted.

No such shop-keeper holding a license from the Police Commissioner as a dealer in second-hand articles shall permit to be sold any article purchased or received by him until at least thirty (30) days after its purchase or receipt. Nor shall any dealer in, or keeper of a shop for the purchase, sale, or barter of, junk or old metals, permit to be sold any article purchased or received by him until at least one week after its purchase or receipt.

(Rev. Ord. 1961 c. 28 § 4; CBC 1975 Ord. T14 § 403) Penalty, see subsection 16-32.1

Cross-reference:

ss 16-24.1.

17-4.5 Restriction on Display of Articles.

No such shop-keeper holding a license from the Police Commissioner as a dealer in any second-hand articles shall permit to be displayed any second-hand furniture or household effects in any open area surrounding or appurtenant to the premises occupied by said license.

(Ords. 1931 c. 5; Rev. Ord. 1961 c. 28 § 5; CBC 1975 Ord. T14 § 404) Penalty, see subsection 16-32.1

17-4.6 Weighers of Vessels and Ballast, Books and Accounts.

The Weighers of Vessels and Ballast shall keep regular books showing the work done, the reports thereon, the fees earned, and the dates of all certificates.

(Rev. Ord. 1961 c. 28 § 6; G.L. c. 102 § 6; CBC 1975 Ord. T14 § 405) Penalty, see subsection 16-32.1

Cross-reference:

Statutes, Title 11 § 30.

17-4.7 Office of Weighers.

The Office of Weighers shall be open from sunrise to sunset on every day except Sundays and legal holidays, but may be closed during the months of April, May, June, July, August and September, from 7:00 a.m. to 8:00 a.m., and during the other months from 8:00 a.m. to 9:00 a.m., and through the whole year from 1:00 p.m. to 2:00 p.m.

(Rev. Ord. 1961 c. 28 § 7; G.L. c. 102 § 14; CBC 1975 Ord. T14 § 406) Penalty, see subsection 16-32.1

Cross-reference:

Statutes, Title 11 § 30.

17-4.8 Masters of Vessels to Report to Weigher; Inspection of Vessels.

The master of every vessel that has stone, sand, gravel, or ballast for sale by weight, to be delivered within the City, shall, on arrival, report in person at the Office of the Weighers, and shall produce for examination a certificate of the marks and measurements of his vessel whenever a weigher so demands. One of the weighers shall go on board every such vessel, and inspect its marks both before and after the delivery of such material, and inspect and weigh such material; and the person having charge of the vessel shall before such delivery, if so required by the weigher, pump out all the water in the vessel, and trim it so as to make it swim at equal marks at stem and stern, and shall not deliver any such material until inspected; but this subsection shall not apply to sand sold for building purposes unless the purchasers request an inspection. Whoever violates any provision of this subsection shall be punished by a fine not exceeding one hundred (\$100.00) dollars for each offense.

(Rev. Ord. 1961 c. 28 § 8; CBC 1975 Ord. T14 § 407)

Cross-reference:

Statutes, Title 11 § 30.

17-4.9 Reports and Certificates.

When a weigher has inspected and weighed any stone, sand, gravel, or ballast in any vessel, he shall forthwith file a report in the office of the weigher, showing the name of the vessel, the vendor, the kind of material, the weight, and deduction of light-water marks, and the amount of fees received, and shall give a certificate, containing the same matters, to the

vendor or owner, but such certificate shall not be given for any material sold out below light-water marks.

(Rev. Ord. 1961 c. 28 § 9; CBC 1975 Ord. T14 § 408) Penalty, see subsection 16-32.1

17-4.10 Vessel Not Subject to Second Weighing.

No vessel which has once been weighed and marked according to law by weigher of the City of Boston shall be subject to charge for a second weighing or marking, unless it appears that her former weight or marks are incorrect or have been changed; but every vessel which has been so weighed and marked shall be subject to the examination and inspection of every weigher, without charge, for the purpose of ascertaining whether the weights are correct or have been altered.

(Rev. Ord. 1961 c. 28 § 10; CBC 1975 Ord. T14 § 409) Penalty, see subsection 16-32.1

Cross-references:

St. T.9 § 10; St. T.11 § 30.

17-4.11 Fees for Measurers of Wood and Bark.

The fees for measurers of wood and bark shall be ten (\$.10) cents for each cord measured, to be paid to the measurer by the owner or vendor.

(Rev. Ord. 1961 c. 28 § 11; G.L. c. 94 § 300; CBC 1975 T14 § 410)

17-4.12 Fees for Measuring Grain.

The fees for measuring wheat, corn or other grain shall be three-quarters of a cent (\$.0075) for each bushel, to be paid to the measurer by the owner or vendor.

(Rev. Ord. 1961 c. 28 § 12; G.L. c. 94 § 221; CBC 1975 Ord. T14 § 411)

17-4.13 Fee for Inspecting Ballast.

The fee for inspecting the weight of stone, sand, gravel, or ballast of any kind shall be five (\$.05) cents for every ton, which fee in all cases shall be paid by the vendor and repaid by the vendee.

(Rev. Ord. 1961 c. 28 § 13; CBC 1975 Ord. T14 § 412)

17-4.14 All Other Fees.

All fees not herein specifically enumerated shall be as provided by law.
(Rev. Ord. 1961 c. 28 § 14; CBC 1975 Ord. T14 § 413)

17-5 MINORS' LICENSES.**17-5.1 Requirements for Licenses.**

No minor between the ages of sixteen (16) and twenty-one (21) years shall, in any street or public place of the City, work as a bootblack, or sell or expose for sale any newspapers, magazines and periodicals, ice, song sheets, religious publications, flowering plant and such flowers, fruit and berries as are wild and cultivated unless he has a license therefor granted by the Mayor and City Council.
(Reg. January 25, 1892; St. 1934 c. 114; St. 1937 c. 73; Rev. Ord. 1961 c. 28 § 15; G.L. c. 101 § 19; CBC 1975 Ord. T14 § 414) Penalty, see subsection 16-32.1

17-5.2 Issue of License.

The City Clerk shall receive applications of parents or guardians of minors, or of responsible citizens of Boston, for licenses for minors, and shall, when such a license is granted, issue the license and a badge to such minor. Every such license shall be issued and accepted on condition that the minor shall comply with the terms of the following subsection, which shall be printed in the license.
(Rev. Ord. 1961 c. 28 § 16; CBC 1975 Ord. T14 § 415)

Cross-reference:
ss 2-10.3.

17-5.3 Conditions.

The minor shall conform to the statutes and ordinances; shall surrender his license and badge to the City Clerk when notified that his license has been revoked; shall not transfer or lend his license or badge, or furnish any unlicensed minor with newspapers or other articles to sell; shall not sell newspapers in or on any part of a street other than the sidewalk, or in or on a street car without the permission of the company operating such car; shall not at any time, while engaged in working as a bootblack or selling articles in public places,

congregate with other persons, or make unnecessary noise, or in any way disturb or annoy persons as they pass, or obstruct free passage on any sidewalk, crosswalk or entrance to any public place, or occupy any stand with any other person, or allow any unlicensed minor to assist or accompany him, or allow idle persons to assemble or congregate around him or around any stand occupied by him, or so work or sell in any other place than that specified in his license when a place is so specified, or at any time while so working or selling fail to wear conspicuously in sight the badge furnished to him by the City Clerk, or fail to exhibit his license to any police or other officer of the City if requested by him so to do. Any minor who violates any of these provisions shall be deprived of his license and badge, and be subject to a fine.
(Rev. Ord. 1961 c. 28 § 17; CBC 1975 Ord. T14 § 416) Penalty, see subsection 16-32.1

Cross-reference:

Ord. ss. 2-10.3.

17-6 MISREPRESENTATION IN CONNECTION WITH JOB INCENTIVE PROGRAMS.**17-6.1 Penalty for Violation.**

Any person who willfully falsifies or misrepresents his age, sex, race, or residence in order to take advantage of a hiring program made a part of any governmental construction contract shall be punished by a fine of not more than two hundred (\$200.00) dollars per day for each day of employment acquired as a result of such misrepresentation or falsification.
(Ord. 1979 c. 32)

17-7 REAL ESTATE; REGULATION OF CERTAIN ACTIVITIES.**17-7.1 Regulation of Real Estate Activities.**

Any person who solicits the sale, lease, sub-lease, or the listing for sale, lease, or sub-lease, of residential property on the ground of a current or prospective change in the ethnic, racial, social or religious character of a neighborhood or on the grounds of the expansion of the Logan International Airport in the East Boston section of Boston, and any

person who induces or attempts to induce such a sale, lease, sub-lease or listing by a statement, written or oral, concerning any such neighborhood change, shall be punished by a fine not exceeding fifty (\$50.00) dollars on account of each solicitation or listing made, or inducement offered, to any person or business entity who is the owner or lessee of residential property, or who seeks to own or lease such property.

Every real estate broker soliciting the sale, lease, or the listing for sale or lease, of three (3) or more residential properties fronting on either side of any street between intersecting or cross streets or between a cul-de-sac or other like termination point and an intersecting or cross street within any ninety (90) day period, whether directly or through his salesman, shall maintain a permanent record, for at least one year from the date of said solicitation, which shall be available for inspection by the Corporation Counsel or any representative thereof upon request, setting forth the name and address of each person so solicited, the address of the property involved, the name of the licensee actually making such solicitation, and the date upon which the solicitation took place. At the request of the Corporation Counsel or any representative thereof, any such broker shall file with the Corporation Counsel a copy of the permanent record, or a statement containing the same information as set forth in the permanent record. Such filing shall be made with the City Clerk no later than ten (10) days following the request therefor.

For the purposes hereof, "soliciting" includes solicitation by telephone, mail, personal visitation, materials distributed by hand, or other media. (Rev. Ord. 1961 (Sup. 1971) c. 28 § 18A; CBC 1975 Ord. T14 § 417)

Cross-reference:

Ord. ss 5-8.1.

17-8 REGISTRATION OF KEEPERS OF SHOPS FOR BARTER, RENTAL OR SALE OF PRINTED MATTER OR MOTION PICTURE FILMS RESTRICTED TO ADULTS.

17-8.1 Registration of Certain Shops.

On and after September first, 1969, no person shall in any year keep a shop for the barter, rental or

sale of printed matter or motion picture film if such shop is not open to the public generally but only to one or more classes of the public excluding minors under eighteen (18) years of age unless in such year or in the preceding December for such year such person has registered with the City Clerk as provided in Subsection 17-8.2 and the number assigned to him upon such registration is clearly and conspicuously imprinted on all printed matter and motion picture films in such shop; nor shall any person keeping a shop for the barter, rental or sale of printed matter or motion picture film in any year keep a part of his stock segregated as available only to one or more classes of the public excluding minors under eighteen (18) years of age unless in such year or in the preceding December for such year such person has registered with the City Clerk as provided in Subsection 17-8.2 and the number assigned to him upon such registration is clearly and conspicuously imprinted on all printed matter and motion picture films constituting a part of the stock so segregated; nor shall any person in any year at any place in the City, barter, rent or sell, or offer for barter, rental or sale, any printed matter or motion picture film bearing a legend restricting it to adults only or to one or more classes of the public excluding minors under eighteen (18) years of age unless in such year or in the preceding December for such year such person has registered with the City Clerk as provided in Subsection 17-5.2 and the number assigned to him upon such registration is clearly and conspicuously imprinted on such printed matter or motion picture film.

(Rev. Ord. 1961 (Sup. 1971) c. 28 § 23A; CBC 1975 Ord. T14 § 423) Penalty, see subsection 17-8.3

Editor's Note:

*This section and the following two were held unconstitutional in **Broadway Distributors, Inc. v. White**, 307 F. Supp. 1180 (D. Mass. 1970).*

17-8.2 Filing for Application.

Any person desiring that a registration number be assigned to him for the purpose of Subsection 17-8.1 shall make application therefor to the City Clerk in a writing setting forth: (1) his name and place of residence, (2) the address of such shop or place, (3) the names and places of residence of all persons having a financial interest in the business, and (4) the names and business addresses of all persons supplying the printed matter or motion picture film to be offered for barter, rental or sale. Any person making

application as aforesaid shall from time to time during the year as circumstances change file supplementary writings with the City Clerk setting forth such changes. Unless subsequent to the effective date of Subsection 17-8.1 the applicant has violated Section 28 or Section 28A of Chapter 272 of the General Laws and been finally adjudged guilty of such violation, the City Clerk shall assign to the applicant a registration number.

(Rev. Ord. 1961 (Sup. 1971) c. 28 § 23B; CBC 1975 Ord. T14 § 424) Penalty, see subsection 17-8.3

Cross-reference:

G.L. c. 272 § 28, 28A;

See note above.

17-8.3 Penalty for Violation.

Whoever violates any provision of Subsection 17-8.1 or whoever makes a false or fraudulent representation in making an application under Subsection 17-8.2, or whoever neglects or fails to file supplementary writings as required by Subsection 17-8.2 shall be subject to a fine of fifty (\$50.00) dollars for each day on which such violation occurs or during which such violation continues.

(Rev. Ord. 1961 (Sup. 1971) c. 28 § 23C; CBC 1975 Ord. T14, § 425)

See note above.

**17-9 RECOMBINANT DNA TECHNOLOGY;
USE REGULATIONS.**

**17-9.1 Guidelines for the Regulation of
Recombinant DNA Use.**

a. Definitions.

1. "Recombinant DNA molecules" (RDNA) and "organisms and viruses containing RDNA" are those defined in the National Institutes of Health Guidelines promulgated in the Federal Register on November 21, 1980, and such amendments thereto as may be approved by the Commissioner of Health and Hospitals (Commissioner). Amendments not acted upon by the Commissioner within sixty (60) days shall be considered approved.

2. An "institution" shall mean any single individual, group of individuals or organization.

3. "Guidelines" are defined as:

(a) National Institutes of Health Guidelines for Research Involving Recombinant DNA molecules as published in the Federal Register of November 21, 1980.

(b) National Institute of Health Physical Containment Recommendations for large-scale use of organisms containing Recombinant DNA molecules as published in the Federal Register on April 11, 1980.

(c) Administrative Practices Supplement to NIH Guidelines for Research involving Recombinant DNA molecules as issued by the Office of Recombinant DNA Activities, November, 1980.

(d) Such amendments to (a), (b) and (c) above which are adopted by NIH and approved by the Commissioner. Amendments not acted upon by the Commissioner within sixty (60) days shall be considered approved.

b. *Purpose.* All use of RDNA by institutions in the City of Boston shall be undertaken only in strict conformity with the "Guidelines," as defined above, and in conformity with such other health regulations as the Board of Health and Hospitals (Board) may from time to time promulgate or administrative practices which the Commissioner may from time to time require.

c. Boston Biohazards Committee.

1. A Boston Biohazards Committee (BBC) shall be established within thirty (30) days of the time of passage of this ordinance for the purpose of overseeing all use of RDNA within the City of Boston and of advising the Commissioner and the Board, all in accordance with the powers and the duties assumed pursuant to Subsection 17-9.3.

2. The BBC shall be composed of seven (7) members, one of whom shall be the Commissioner or his designee who shall serve as chairman; two (2) of whom shall be residents of neighborhoods which are or may be impacted by RDNA research or technology; one of whom shall be a scientist knowledgeable in the field of RDNA research or technology; and three (3) of whom shall assure representation from the fields of public health,

occupational health and infectious diseases. Members shall be appointed by the Mayor, subject to confirmation by the City Council, except for the two (2) community representatives. Each neighborhood impacted by RDNA research or production may nominate a delegate to attend and participate in meetings of the BBC. The Commissioner shall arrange with an established community group in each such neighborhood to conduct an election, at no cost to the City, to nominate such delegates. Neighborhood delegates will arrange among themselves at the first meeting of the BBC in each year which delegates shall hold the voting memberships provided in this section. The members as appointed by the Mayor shall serve for terms of three (3) years, except that one member initially appointed to represent a neighborhood which is or may be impacted by RDNA research or technology and one member initially appointed to assure representation from the fields of public health, occupational health or infectious disease shall be initially appointed for terms of two (2) years; and the other two (2) members initially appointed to assure representation from the fields of public health, occupational health or infectious disease shall be initially appointed for terms of one year. Persons appointed by the Mayor to fill vacancies shall serve for the unexpired term of said vacancy. Appointments not acted upon by the City Council shall automatically take effect after twenty-one (21) days.

3. Upon the request of the BBC, the Commissioner shall make available competent professional assistance to assist the BBC in carrying out its duties under this ordinance.

d. Permit Requirements.

1. All institutions proposing to use RDNA must obtain a permit from the Board which must be renewed annually. Permit requirements shall, at minimum, include written agreement to:

(a) Following the "Guidelines" as defined in Subsection 17-9.1.

(b) Follow other conditions as set forth in this ordinance.

(c) Allow inspections, at reasonable times, of facilities and pertinent records.

(d) Prepare a Health and Safety Manual which contains all procedures relevant to the use of RDNA at all levels of containments at use at the institution.

(e) Establish a training program of safeguards and procedures for personnel using RDNA.

(f) Submit, to the BBC, for approval by the Commissioner, a plan for the systematic monitoring of research and production waste to assure that surviving RDNA organisms are not released into the environment. Said plan shall include provisions that no surviving RDNA organisms are released into the City's sewerage system.

2. Applications for permits must be acted upon within sixty (60) days, unless such applications involve physical containment defined by the "Guidelines" as "P2" or "P3" or are defined by the "Guidelines" as "large scale" activities, in which case applications must be acted upon within ninety (90) days. Failure to act within such time period shall constitute an approval.

3. Any institution which has not commenced RDNA activity as of the effective date of this ordinance may not proceed until a permit is issued. All other institutions must apply for such permits within sixty (60) days of the effective date of this ordinance.

e. The Institutional Biosafety Committees (IBCs), shall be established in accordance with the "Guidelines," except that the required composition of the committees shall include at least one representative of the local community approved by the Commissioner and at least one non-doctoral person from the laboratory technical staff.

f. The Commissioner may require the forwarding of minutes of IBC meetings and may also require the filing of regular reports, all in a manner to be determined by him. To the extent IBC minutes may contain trade secrets or proprietary information the Commissioner and the Institution shall develop procedures for assuring confidentiality.

g. Institutions using RDNA shall perform adequate screening to insure the purity of the strain of host organisms used in the experiments and shall test

organisms resulting from such experiments for their resistance to commonly used therapeutic antibiotics.

h. All institutions using RDNA shall provide an appropriate medical surveillance program as determined by their IBC for all persons engaged in the use of RDNA. Such programs must be submitted to and approved by the Commissioner and shall include, but shall not necessarily be limited to:

1. A medical examination for employees prior to their employment in a laboratory or area engaged in RDNA research or technology.

2. Prompt reporting of significant or potentially related employee illnesses to their IBC.

3. Retention of medical and health records for a period of time to be determined by the Commissioner.

The Commissioner, with the advice and recommendations of the BBC, may set minimum standards for medical examinations, employee illness reporting, and medical and health records, and may likewise require, for specified levels of physical containment or large-scale use, the taking of serum samples at the time of employment and their maintenance to permit future testing. The Commissioner and the institution shall develop procedures to assure that the confidentiality of employee health and medical records are protected.

i. The institution shall report within thirty (30) days to the Commissioner and the BBC any significant problems with or violations of the "Guidelines" and any significant RDNA related accidents or illnesses.

j. All areas in which RDNA is utilized shall be free of rodent and insect infestation.
(Ord. 1981 c. 12 § 1) Penalty, see subsection 17-9.6

17-9.2 Large Scale.

All institutions using RDNA on a "Large Scale" (as defined in the "Guidelines") must adhere to the following requirements in addition to those stated in Subsection 17-9.1.

a. *Special Permit.* All institutions intending to engage in large-scale procedures must obtain a special,

large-scale permit from the Board, which must be renewed annually, prior to commencing such procedures. Said permit shall be separate and distinct, but otherwise in addition to the permit required by Subsection 17-9.1.

Such Large-Scale Permit shall require, at minimum, written agreement to:

1. Identify clearly all large-scale RDNA use in their IBC minutes.

2. Develop procedures through their IBC for monitoring large-scale operations for compliance with this ordinance and the "Guidelines," to be approved by the Commissioner.

3. Establish a Health-Safety Program for appropriate employees which shall include periodic health surveillance which must be approved by the Commissioner.

b. The Commissioner shall cause any facility using Large-Scale RDNA to be inspected no less than annually.

c. Prior to issuing any Large-Scale Permit the Board shall conduct an appropriate public hearing.
(Ord. 1981 c. 12 § 2) Penalty, see subsection 17-9.6

17-9.3 Boston Biohazards Committee (BBC).

Recognizing the need for community and scientific input to assist the Board and the Commissioner in carrying out their duties and responsibilities in regulating Recombinant DNA research, production and technology, the BBC, as established by Subsection 17-9.1c., shall have the following duties and responsibilities.

a. The BBC shall continually review literature in the area of Recombinant DNA research, production and technology and shall continually review the effectiveness of the regulatory system established by this ordinance and, in light of such review, shall advise and make recommendations to the Commissioner and the Board as to the manner in which the system may be improved. Included within such responsibilities, the BBC shall review and make

recommendations to the Commissioner on all amendments to the "Guidelines."

b. The BBC shall review and make recommendations to the Board on all applications for permits and permit renewals.

c. The BBC shall review, comment and make recommendations to the Commissioner on individual institution's policies, procedures, manuals and programs adopted by such institution for the purpose of conforming with the requirements of this ordinance and its permit.

d. The BBC shall designate one of its members, other than the Commissioner, to participate in site inspections carried out under this ordinance.

e. The BBC shall designate one or more of its members to participate in public hearings held by the Board in the area of Recombinant DNA regulation or permitting.

f. The BBC shall review and make recommendations to the Commissioner and the Board in regard to appropriate administrative action to be taken for violations of this ordinance.

g. The BBC shall make an annual report to the Board, the nature and content of which shall be determined by the BBC, as to the status of RDNA research, technology and production activities within the City and the effectiveness of the regulatory system as established by this ordinance.

h. The BBC shall meet at least six (6) times per year but otherwise with sufficient frequency to assure prompt and effective response to its duties and responsibilities.

(Ord. 1981 c. 12 § 3)

17-9.4 Restrictions.

a. RDNA use requiring containment defined by the "Guidelines" as "P4" shall not be permitted in the City of Boston.

b. There shall be no deliberate release into the environment of any surviving organism containing recombinant DNA and any accidental release shall be

reported to the Commissioner immediately and in no case longer than twenty-four (24) hours.

(Ord. 1981 c. 12 § 4) Penalty, see subsection 17-9.6

17-9.5 Fees and Expenses.

The Commissioner is hereby authorized and directed to design, implement and enforce a fee system which shall assure that activities carried out by the City and the BBC in conformance with this ordinance are fully reimbursed by the regulated institutions. Payment of such fee or fees shall be a further condition of the granting or renewing of any permit.

(Ord. 1981 c. 12 § 5)

17-9.6 Penalties.

a. Violation of the conditions of this section shall subject the violator to a fine of two hundred (\$200.00) dollars per day. Each day of violation shall constitute a separate and distinct offense.

b. Once a permit has been issued it may be revoked, suspended or modified by the Commissioner, or not renewed by the Board, only upon a determination, after due notice and hearing, that the institution involved has materially failed to comply with this ordinance, the permit agreements, or the "Guidelines." Notice and hearing procedures shall be those established by the Environmental Health Inspection Services Division of the Department of Health and Hospitals.

c. Notwithstanding the above, the Commissioner, upon a determination that any violation constitutes an immediate and severe threat to the public health and safety, may order the immediate closure of any premises or laboratory engaging in or contributing to such threat, without prior notice and hearing but otherwise with subsequent notice and hearing.

(Ord. 1981 c. 12 § 6)

17-9.7 Severability of Sections.

If any section, subsection, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate,

distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. 1981 c. 12 § 7)

17-9.8 Term.

This section shall be in full force and effect until July 1, 1991 unless sooner amended, repealed or extended. Nothing contained herein shall be construed to limit the term or effectiveness of any regulations promulgated by the Board of Health and Hospitals during or subsequent to such period.

(Ord. 1981 c.12 § 8; Ord. 1986 c. 9, §§ 1, 2)

Editor's Note:

Section 2 of Ord. 1986 c. 9 states "The remaining parts and portions of said Chapter 12 of the Ordinances of 1981 are hereby continued and confirmed to the end that the said ordinance shall be deemed to not have lapsed and to be and remain continuously in force and effect until July 1, 1991 unless sooner amended, repealed, or extended."

Ord. 1991 c. 3 provides that Chapter 12 of Ordinance 1981 shall be in full force and effect until January 1, 1993.

17-10 PERMITTING AND REGULATION OF MOBILE FOOD TRUCKS.

17-10.1 Definitions.

When used in this section, unless the context otherwise requires, the following terms shall have the following meanings:

Commissioner shall mean the Commissioner of Public Works of the City of Boston or his or her designee.

The Committee shall mean the Commissioner, the Director of Food Initiatives, and the Departments, as defined.

Departments shall mean the Transportation Department, the Inspectional Services Department, the Police Department, the Fire Department, and the Assessing Department, all of the City of Boston.

Food establishment shall mean a business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption as set forth in the State Sanitary Code 105 CMR 590.002.

Mobile food commissary shall mean a licensed food establishment that a mobile food truck reports to twice daily for all food and supplies and for all cleaning and sanitizing of units and equipment.

Mobile food truck shall mean a mobile food vehicle.

Mobile food vehicle shall mean a food establishment that is located upon a vehicle, or which is pulled by a vehicle, where food or beverage is cooked, prepared and served for individual portion service, such as a mobile food kitchen; provided however that a mobile food vehicle shall not be considered a food service establishment for the purposes of CBC 18-1.6(39).

(Ord. 2011 c. 5)

17-10.2 Scope.

a. The provisions of this section shall apply to mobile food operations engaged in the business of cooking, preparing, and distributing food or beverage with or without charge from mobile food trucks on or in public, private or restricted spaces. This section shall not apply to canteen, coffee, or ice cream trucks that move from place to place and are stationary in the same location for no more than thirty (30) minutes at a time or food vending push carts and stands.

b. The provisions of this section shall not apply to mobile food operations that receives a temporary event permit issued by the Public Works Department.

(Ord. 2011 c. 5)

17-10.3 Mobile Food Trucks Committee.

a. There shall be within the City of Boston a Mobile Food Trucks Committee consisting of the Public Works Department, the Transportation Department, the Inspectional Services Department, the Police Department, the Fire Department, the Director of Food Initiatives and the Assessing Department for the purpose of reviewing applications for mobile food truck permits and establishing rules and regulations as appropriate.

b. The Committee may work with an industry-led task force in developing acceptable routes of operation throughout the city and establishing industry standards, such as the use of global positioning system (GPS) devices and other matters.

c. The Committee may work with applicants for mobile food truck permits and renewals to encourage the following:

- i. Sustainable and environmentally friendly practices, including the use of energy-efficient vehicles,
 - ii. Charitable components to the business of operation,
 - iii. School nutrition programs or healthy food choices,
 - iv. Programs for children or the homeless,
 - v. Other socially responsible practices and programs,
 - vi. Routes that provide access to underserved neighborhoods of the city, and
 - vii. The use of food commissaries within the City.
- (Ord. 2011 c. 5)

17-10.4 Mobile Food Truck Permit Required.

a. No person or business entity, including a religious or charitable organization, shall operate a mobile food truck in any public, private or restricted space without a permit issued by the Committee.

b. A mobile food truck permit is required for each and every mobile food truck.
(Ord. 2011 c.5)

17-10.5 Application for a Mobile Food Truck Permit.

a. *Single Application.* There shall be made available by the Commissioner a single application form to apply for each mobile food truck permit. The application shall provide the following:

1. A description of necessary inspections and fees;

2. A description of areas of the City where the operation of mobile food trucks are limited or prohibited;

b. *Submission of Materials.* Each application shall indicate on its face, in addition to other requirements as may be determined by the Committee, that the following materials must be submitted by the applicant:

1. The name of the business and its owner or owners and the mailing address of the business,

2. A description of the proposed business plan for the mobile food truck operation,

3. A proposed service route and hours of operation with a detailed schedule of times and locations where the mobile food truck will be stationary and serving food,

4. Certification that the vehicle has passed all necessary inspections required by the Boston Fire Department and Department of Inspectional Services,

5. Proof that the mobile food truck will be serviced by a mobile food commissary,

6. Proof of access to restroom facilities with flushable toilets and access to hand washing facilities for the use of the mobile food truck employees within five hundred (500) feet of each location where the mobile food truck will be in operation for more than one (1) hour in any single day, and

7. A certificate of insurance providing general liability insurance listing the City as additionally insured. A food truck permit shall be issued only for the explicit time period covered by the effective dates of the general liability insurance policy.

c. *Approval Process.* An application must be submitted to the Commissioner of Public Works, who shall then forward the application to the Departments for review. The application must receive the approval of each of the Departments, based on duly published

criteria established by the Committee, prior to its final approval and the issuance of a permit by the Commissioner.

1. The Committee may work with the applicant or permit holder to modify a service route at any time (i) before the issue of a permit or (ii) after the issue of a permit, if the grant of a permit or approval of a service route has led to the creation of a nuisance or otherwise endanger the public health, safety, or order or by request of the permit holder.

2. Within sixty (60) days of the submission of a completed application, the Commissioner shall either issue or deny the application for a permit.

3. If the application is denied in whole or in part, the Commissioner shall state the specific reasons for the denial. Any applicant who has been denied a permit may appeal such denial by submitting a written request for a hearing to the Commissioner within ten (10) days of denial. Such hearing shall be conducted by the Commissioner or his or her designee within thirty (30) days of receipt of said appeal. The decision resulting therefrom shall be final and subject only to judicial review under M.G.L. c. 30A, § 14. (Ord. 2011 c. 5)

17-10.6 Limitation on the Number of Permits.

The Committee may from time to time set a limit on the number of total permits that may be issued or renewed per year; provided, however, that no more than ten percent (10%) of total permits or five (5) permits, whichever is greater, may be issued to a single person or business entity or both. Upon receipt of application, the Commissioner or his or her designee shall advise the applicant whether or not the limitation has been met. (Ord. 2011 c. 5)

17-10.7 Permit Renewal.

a. Every mobile food truck permit, unless suspended or revoked by the Committee for a violation of any provision of this section or other rule or regulation promulgated for the implementation of this section, shall be renewed annually given that a renewal fee is paid within thirty (30) days after its one

(1) year expiration, at which time the permit holder shall forfeit the right to renew and the permit may be made available to another applicant for new permit if the limitation on the number of permits has not been reached.

b. The renewal of a permit does not also guarantee renewal of the previously approved route. The Committee reserves the right to add, remove, and reapportion available locations among mobile food truck operations at renewal. (Ord. 2011 c. 5)

17-10.8 Rules and Regulations.

a. *General.* The Committee members are hereby authorized to promulgate, both jointly and within their respective departments, additional rules and regulations appropriate for the implementation of this section, and, if necessary, work with other agencies and departments of the City and State to establish a streamlined process for the permitting of mobile food trucks; provided, however, that such rules and regulations are not inconsistent with the following limitations and restrictions:

1. No operator of a mobile food truck shall park, stand, or move a vehicle and conduct business within areas of the City where the permit holder has not been authorized to operate;

2. No permit holder shall possess a permit for a mobile food truck that is not in operation for a period of more than fourteen (14) days without duly notifying and obtaining approval from the Commissioner.

3. The issuance of a permit does not grant or entitle the exclusive use of the service route, in whole or in part, to the mobile food truck permit holder, other than the time and place as approved for the term of the permit;

4. No mobile food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, unless a proposal for such seating arrangements is submitted with the permit application and approved by Committee.

5. Consumers shall be provided with single service articles, such as plastic forks and paper plates, and a waste container for their disposal. All mobile food trucks shall offer a waste container for public use that the operator shall empty at his own expense.

6. The permit holder must keep an accurate log indicating that the mobile food truck is serviced at least twice daily by a mobile food commissary for all food, water and supplies and for all cleaning and servicing operations, including the emptying and cleaning of waste containers.

7. No mobile food truck shall make or cause to be made any unreasonable or excessive noise in violation of CBC 16-26.1.

8. A mobile food truck may not operate on public property unless the Commissioner and the Departments have otherwise granted approval on the permit application for its operation at the particular location during specific times.

9. All mobile food trucks must be equipped with a permanently mounted global positioning system (GPS) device that meets rules and regulations established by the Committee or its members.

10. For mobile food trucks on public property, the City reserves the right to temporarily move a mobile food truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.

b. *Inspectional Services.* The Inspectional Services Department shall ensure compliance with the State Sanitary Code 105 CMR 590.

c. *Fire Department.* The Boston Fire Department shall promulgate rules and regulations for the inspection of mobile food trucks and to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes.
(Ord. 2011 c. 5)

17-10.9 Permit Fees.

a. *Application Fee.* The application fee for a permit or a renewal of a permit granted by the Committee for the operation of a mobile food truck shall be five hundred (\$500.00) dollars.

b. *Annual Fee.* An annual fee shall be required for the issuance or renewal of a mobile food truck permit based on a taxable market valuation of City property by the Assessing Department, including sidewalks, from which mobile food trucks will stand according to a route of operation submitted with an application for a mobile food truck permit. Nothing in this section shall prohibit the Committee from designating zones throughout the City for the purposes of establishing fees and rates.
(Ord. 2011 c. 5)

17-10.10 Prohibition Against the Transfer of a Permit.

a. *Transfers for Value Prohibited.* No person holding a permit for a mobile food truck shall sell, lend, lease or in any manner transfer a mobile food truck permit for value.

b. *Nonvalue Transfers as Part of the Sale of a Business.* Notwithstanding subsection 17-10.10(a), a permit holder may transfer a permit as part of the sale of a majority of the stock in a corporation holding such permit, as part of the sale of a majority of the membership interests of a limited liability company holding such permit, or as part of the sale of a business or substantially all of its assets; provided that there shall be no allocated or actual value for the transfer of the permit.

1. Prior to any such transfer, the transferor shall notify the Committee in writing and the transferee shall submit a food truck permit application for approval to the Committee pursuant to the process set forth in subsection 17-10.5 and any additional rules and regulations promulgated by the Committee.

2. Any such transfer shall be subject to the terms and conditions of the original permit.

c. *Unauthorized Transfer Voids Permit.* Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Whoever violates this provision, including both the transferor and transferee, shall be subject to a fine of three hundred (\$300.00) dollars, pursuant to section 17-10.12(a). The unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation.

(Ord. 2011 c. 5)

17-10.11 Operation of Mobile Food Trucks.

a. *Operation Without Permit.* Any mobile food truck being operated without a valid mobile food truck permit issued by the Commissioner shall be deemed a public safety hazard and may be ticketed and impounded.

b. *Unattended Vehicles Prohibited.* No mobile food truck shall be parked on the street overnight, or left unattended and unsecured at any time food is kept in the mobile food truck. Any mobile food truck which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

c. A mobile food truck operating outside of an approved route, at an unauthorized location, or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and may be subject to enforcement under section 17-10.12.

(Ord. 2011 c. 5)

17-10.12 Enforcement.

a. *Fine for Violation.* Any permit holder operating a mobile food truck or service in violation of any provision of this section or any rules and regulations promulgated by the Committee may be subject to a fine of three hundred (\$300.00) dollars per day. Each day of violation shall constitute a separate and distinct offense. The provisions of G.L. c. 40, s. 21D may be used to enforce this section.

b. *Revocation, Suspension, Modification.* Once a permit has been issued it may be revoked, suspended, modified, or not renewed by the Commissioner for failure to comply with the

provisions of this section or any rules and regulations promulgated by the Committee.

1. No permit shall be revoked, suspended, modified, or not renewed without a hearing before the Commissioner or his or her designee, prior to which hearing the Commissioner or his or her designee shall give reasonable notice of the time and place of the hearing and the specific grounds of the proposed action. The decision resulting therefrom shall be final and subject only to judicial review under M.G.L. c. 30A, § 14.

2. The Commissioner or his or her designee may suspend a permit for no more than three (3) days without a notice or hearing, pursuant to subsection 17-10.12(b)(1), if the Commissioner or his or her designee specifically notifies the permit holder in writing that there is a probability of violation of public safety, health or order. In such a case, a hearing shall be held before the Commissioner or his or her designee within forty-eight (48) hours of the suspension in order to determine whether the public safety, health or order concern justified the suspension.

c. *Removal.* Any permit holder found in violation of this section or any rules and regulations promulgated by the Committee may be issued a ticket for violation and the mobile food vehicle may be impounded.

d. *Enforcement.* The provisions of this section or any rules and regulations promulgated by the Committee may be enforced jointly by the Boston Police Department and the Boston Transportation Department.

(Ord. 2011 c. 5)

17-10.13 Severability.

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. 2011 c. 5)

17-11 RESERVED.

(Ord. 1985 c. 10 §§ 1-12; Recodified in Chapter XXIII by Ord. 1991 c. 5 § 28)

**17-12 SAFETY CONTROL MEASURES IN
EVENT OF GAS LEAK OR OTHER
EMERGENCIES.****17-12.1 Control Measures Required for
Emergency Situations.**

Public utilities or licensed companies maintaining within the City of Boston pipelines, conduits, wires, or any other system for transmission of natural gas, fuels, water, sewerage, electricity, acids or dangerous substances shall provide control measures to isolate districts or neighborhoods in event of emergency threatening to spread to other districts. (Ord. 1983 c. 36 § 1) Penalty, see subsection 16-32.1

**17-12.2 Safety Release Discharge
Mechanism.**

Gas transmission pipeline systems operating in the City of Boston shall, on or before June 30, 1984, in addition to any other control or regulator devices, be equipped with a safety relief discharge mechanism for immediate relief of gas pressures exceeding prescribed tolerances in a district, neighborhood or community. (Ord. 1983 c. 36 § 2) Penalty, see subsection 16-32.1

**17-12.3 Testing of Water and Sewer Lines;
Monitoring of Pipeline Flow.**

The Boston Water and Sewer Commission shall survey by means of recognized testing devices all major water lines and sewer lines for evidence of leakage at least semi-annually. The Commission shall also utilize available computerization systems for constant monitoring of pipeline flows. (Ord. 1983 c. 36 § 3) Penalty, see subsection 16-32.1

17-12.4 Enforcement.

The Public Safety Commission of the City of Boston shall enforce provisions of this section and shall, after public hearing, adopt any regulations necessary to this purpose. (Ord. 1983 c. 36 § 4)

**17-13 THEATRICAL EXHIBITIONS AND
PUBLIC AMUSEMENTS.****17-13.1 Application for License.**

The Mayor may, unless otherwise prohibited by law, grant a license for theatrical exhibitions, public shows, public amusements, and exhibitions of every description, to be held upon weekdays only, to which admission is obtained upon payment of money or upon the delivery of any valuable thing, or in which, after free admission, amusement is furnished upon deposit of money in coin-controlled apparatus. The application for such license must be in writing and fully and specifically describe the conditions of the proposed exhibition, show, or amusement and the premises upon which the proposed exhibition, show, or amusement is to take place, to the extent that such conditions or premises would affect the public safety, health, or order. Upon written request of the Mayor, the applicant shall, in addition to such description, furnish reasonable information concerning the condition of the premises and actions to be taken in order to prevent danger to the public safety, health, or order.

(Ord. 1973 c. 9; CBC 1975 Ord. T14 § 426)

Cross-reference:

Ord. ss 2-7.8.

**17-13.2 Time Limit for Acting on
Application.**

The Mayor shall act upon every application for a license or renewal of a license within thirty (30) days next following the date of the filing of said application; and if he shall fail to act upon any application within the thirty (30) days next following the date thereof or such other time as may be prescribed by law, he shall forthwith upon demand of the applicant issue or renew such license, unless he shall have determined that a hearing should be held to consider whether the application should be denied under Subsection 17-13.3 and within such thirty (30) day period shall have given the notice specified in said subsection.

(Ord. 1973 c. 9; Ord. 1978 c. 9; CBC 1975 Ord. T14 § 427)

Cross-reference:

Ord. ss 2-7.8.

17-13.3 Issuance of Licenses.

The Mayor shall grant a license applied for under Subsection 17-13.1, unless he specifically finds, after a hearing preceded by at least ten (10) days written notice to the applicant and to the persons specified in City of Boston Code, St. 14, Section 4 and states in writing within forty-five (45) days next following the close of such hearing that the granting of the license at the premises would lead to or cause an offense under any applicable law, code, or ordinance; or would lead to the creation of a nuisance or otherwise endanger the public health, safety, or order by:

a. Unreasonably increasing pedestrians or vehicular traffic in the area in which the premises are located; or

b. Increasing the incidence of illegal or disruptive conduct in the area in which the premises are located; or

c. Unreasonably increasing the level of noise in the area in which the premises are located; or

d. Otherwise significantly harming the legitimate protectable interests of the affected citizens of the City.

No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is remote.

The Mayor may impose conditions upon a license but said conditions may only relate to compliance with applicable laws or ordinances, or to public safety, health, or order, or to steps required to be taken to guard against creation of a nuisance or to insure adequate safety and security for patrons of the affected public.

(Ord. 1973 c. 9; CBC 1975 Ord. T14 § 428; Ord. 1978 c. 9)

Cross-reference:

Ord. ss 2-7.8.

17-13.4 Suspension of License.

No license shall be revoked or suspended without a hearing before the Mayor or his designate,

prior to which hearing the Mayor or his designate shall give reasonable notice of the time and place of the hearing and the specific grounds of the proposed revocation or suspension; provided that the Mayor may suspend a license for no more than three (3) days without such notice or hearing if the Mayor specifically notifies the license holder in writing there is a probability of violation of public safety, health, or order without such suspension. In such a case a hearing shall be held within forty-eight (48) hours of said suspension in order to determine whether the public safety, health, or order justified such suspension.

(Ord. 1973 c. 9; CBC 1975 Ord. T14 § 429)

Cross-reference:

Ord. ss 2-7.8.

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17-13.5 Fine for Violation.

Whoever offers to view, sets up, sets on foot, maintains, carries on, or otherwise assists in or promotes any such exhibition, show or amusement without a license shall be subject to a fine of fifty (\$50.00) dollars for each day on which such violation occurs or during which said violation continues. (Ord. 1973 cs. 9, 10; CBC 1975 Ord. T14 § 430)

17-13.6 Prohibiting Entertainment During Certain Hours.

No person shall between the hours of 2:00 a.m. and 6:00 a.m., in any club, theater, restaurant, retail store, or in any other place of business or place of public assembly, offer, provide, perform, set up, or suffer another to offer, provide, perform, or set up, any entertainment or music, live, recorded, or mechanical, including but not limited to entertainment or music provided by means of a radio, television, tape recorder, phonograph or projector, except that the showing of a motion picture commenced prior to 12:30 a.m., may continue uninterrupted until its conclusion provided that the same is concluded prior to 3:00 a.m.

Whoever violates this subsection shall be punished by a fine of two hundred (\$200.00) dollars for each day such violation continues. (Ord. 1979 c. 4)

17-13.7 Prevention of Sexually Transmitted Diseases.

a. *Declaration of Public Health Emergency.* The spread of sexually transmitted diseases (STDs), including acquired immune deficiency syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection, has created a public health emergency. The spread of these diseases can be limited through the availability of affordable, high quality latex condoms in certain places of public accommodation. The lack of availability of condoms in these places of public accommodation constitutes a danger to public health and welfare.

b. Requirement of Vending Machines Which Dispense Condoms.

1. In order to be granted an annual seven (7) day entertainment license from the Licensing Division of the Mayor's Office of Consumer Affairs and Licensing, establishments which also hold a Common Victuallers seven (7) day all alcohol license must install and maintain coin-operated vending machines which dispense affordable, high quality latex condoms. Current holders of annual seven (7) day entertainment licenses from the Licensing Division of the Mayor's Office of Consumer Affairs and Licensing which also hold a Common Victuallers seven (7) day all alcohol license must install and maintain coin-operated vending machines which dispense affordable, high quality latex condoms in order to continue to be licensed.

2. The condom vending machines shall be located in a publicly accessible place, or in at least one (1) male and one (1) female restroom, and shall display a sticker prepared by the Commissioner of Health and Hospitals, which will provide telephone numbers for referral and information concerning STDs, including AIDS.

3. For the purposes of this subsection, a "high quality latex condom" means a condom which is made of latex, a specific type of rubber product that has no pores, and which is tested and approved by the U.S. Food and Drug Administration.

c. *List of Vending Machine Operators.* The Licensing Division of the Mayor's Office of Consumer Affairs and Licensing and the Commissioner of Health and Hospitals shall maintain a list of vending machine operators who agree to install and maintain the vending machines in continuous working order at no cost to the owners or lessees of the licensed premises.

d. Exemptions.

1. This subsection shall not apply to any annual seven (7) day entertainment license holder whose establishment is not required to have a restroom.

2. This subsection shall not apply to any annual seven (7) day entertainment license holder

whose establishment has a legal maximum occupancy of less than one hundred (100) persons.

3. This subsection shall not apply to any annual seven (7) day entertainment license which is held by a religious institution or an organization affiliated with a particular religion.

4. This subsection shall not apply to any annual seven (7) day entertainment license holder whose establishment is required to obtain the license solely due to the use of automatic amusement devices on the premises.

5. This subsection shall not apply to any annual seven (7) day entertainment license holder who demonstrates to the satisfaction of the Licensing Division of the Mayor's Office of Consumer Affairs that, despite the holder's good faith efforts, no vending machine operator is willing to install a condom vending machine on the licensed premises.

6. This subsection shall not apply to any annual seven (7) day entertainment license holder who demonstrates to the satisfaction of the Licensing Division of the Mayor's Office of Consumer Affairs that high quality latex condoms and information concerning STDs, including AIDS, are readily available to patrons on the licensed premises.

e. *Annual Report to the City Council.* The Licensing Division of the Mayor's Office of Consumer Affairs and Licensing shall determine whether holders of annual seven (7) day entertainment licenses comply with this subsection, and shall report its findings annually to the City Council for any necessary action.

f. *Severability.* The provisions of this subsection are severable and if any provision shall be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions of this subsection which shall remain in full force and effect.

(Ord. 1992 c. 12 §§ 1-6) Penalty, see subsection 16-32.1

17-14 TRANSIENT VENDORS.

17-14.1 Licenses for Vendors.

Every transient vendor, whether principal or agent, authorized by state license to do business in this Commonwealth, before making any sales of goods, wares and merchandise in the City of Boston, shall make application for a local license to the City Clerk, stating the names, residences and places of business of the owners or parties in whose interest said business is conducted, and shall at the same time file with the City Clerk a true statement, under oath, of the average quantity and value of the stock of goods, wares, and merchandise kept or intended to be kept or exposed by him for sale. The City Clerk shall submit said statement to the Commissioner of Assessing who shall forthwith make an examination and valuation of such goods, wares and merchandise and transmit a certificate thereof to the City Clerk.

(Rev. Ord. 1961 (Sup. 1971) c. 28 § 19; CBC 1975 Ord. T14 § 418) Penalty, see subsection 17-14.5

Cross-references:

Ord. ss 2-10.1; Ord. ss 6-2.1.

17-14.2 Issuance of Licenses; Bond to City.

Upon the payment of the fee prescribed by subsection 18-1.20, paragraph 9, the City Clerk shall issue to the transient vendor a license authorizing the sale of such goods, wares and merchandise within the City of Boston. Such license shall remain in force so long as the licensee shall continuously keep and expose for sale in the City of Boston such stock of goods, wares and merchandise, but not later than the first day of January following its date of issuance. Every transient vendor licensed under this ordinance shall also execute a bond to the City of Boston in the sum of five hundred (\$500.00) dollars with two (2) sufficient sureties, conditioned for faithful observance of this ordinance.

(St. 1933 c. 254 § 64; Ord. 1956 c. 7 § 6; Rev. Ord. 1961 c. 28 § 20; CBC 1975 Ord. T14 § 419) Penalty, see subsection 17-14.5

17-14.3 Display of License.

Every transient vendor who is granted a license under the provisions of this section shall exhibit the

same at all times, while in force, in some conspicuous part of the place of business for which it is issued. (Rev. Ord. 1961 c. 28 § 21; CBC 1975 Ord. T14 § 420) Penalty, see subsection 17-14.5

17-14.4 Definition.

The term "transient vendor" for the purposes of this ordinance shall be the same as defined in Sections 1 and 2 of Chapter 101 of the General Laws of Massachusetts and acts in amendment thereof and addition thereto.

(Rev. Ord. 1961 c. 28 § 22; CBC 1975 Ord. T14 § 421)

Cross-reference:

G.L. c. 101 §§ 1, 2.

17-14.5 Penalties for Violation.

Any person, association or corporation who shall engage in the business of a transient vendor, as herein defined, without having secured a license for that purpose as provided in this section, or who neglects or refuses to file the statement described in Subsection 17-14.1, or who makes a false or fraudulent representation in said statement, or who, having secured such license, shall thereafter fail to pay the sum required herein, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of twenty (\$20.00) dollars for each day during which such goods, wares or merchandise are kept or exposed for sale.

(Rev. Ord. 1961 c. 28 § 23; CBC 1975 Ord. T14 § 422)

17-15 TRANSPORTATION OF HAZARDOUS MATERIALS BY MOTOR VEHICLE; REGULATIONS.

17-15.1 Definitions.

Carrier shall mean a person engaged in the business of transporting hazardous materials on streets and highways by motor vehicles; if the motor vehicle is leased, the lessee is the carrier.

City shall mean the City of Boston.

Hazardous Materials shall mean the following are designated hazardous materials for the purpose of this section:

Class A Explosives (173.53) – Numbers in parens. Refer to Title 49 of the Code of Federal Regulations.

Class B Explosives – (173.88).

Poisonous Gases – Poison A (173.326).

Flammable Solid – (172.101).

Radioactive Materials with Radioactive Yellow III – label (172.403), excluding USA DOT – 7AX Type A radioactive materials that are intended for use in, or incident to, research or medical diagnosis, or treatment.

Liquefied Petroleum Gas (LPG).

Liquefied Natural Gas (LNG).

Liquefied Hydrogen – (173.316).

Flammable Liquids with flash points seventy-three (73°F) degrees Fahrenheit or less, in gross quantities of one thousand (1,000) pounds or more.

Operate shall mean to engage in the transport of hazardous materials in commerce on the streets and highways by motor vehicle.

Person shall mean any individual, corporation, firm, partnership, society, association, joint venture, or other legal entity.

Vehicle shall mean a motor vehicle used for the transportation of hazardous materials in commerce. (Ord. 1979 c. 39 § 1)

17-15.2 Regulations Established.

Regulations concerning the transport of hazardous materials.

a. The Fire Commissioner and Commissioner of Health and Hospitals shall promulgate joint

regulations under the authority of M.G.L.A. Chapter 148, Section 9 and M.G.L.A. Chapter 111, Section 122, and this section and not inconsistent with such authority or regulations issued thereunder. A hearing shall be provided as required by law. Such regulations shall require but not be limited to the following:

1. Adopt Massachusetts Department of Public Works regulation CMR Title 720, Section 8 to ensure the application of those regulations to City streets.

2. Prohibit the transportation of hazardous materials within designated parts of the City between the hours of 6:00 a.m. and 8:00 p.m., Saturdays, Sundays, and holidays excluded. Drivers may operate their vehicles in the designated areas of the City during these restricted hours only if they obtain a permit from the Fire Commissioner to do so.

3. Prohibit the transportation of hazardous materials excluding flammable fluids within the City if there is neither a point of origin nor a destination (delivery point) within the City and if a practical alternative route exists from origin to destination outside the City. Economic criteria shall not be determinative of whether or not an alternative route is practical. If a practical alternative route does not exist as determined by the Fire Commissioner he shall designate appropriate routes within the City.

4. Designate routes within the City on which carriers may operate their vehicles. These routes shall not go through or near heavily populated areas, places where crowds are assembled, tunnels, narrow streets or alleys, unless no reasonable alternatives exist.

5. Require carriers to obtain permits to operate in unrestricted parts of the City where, in the discretion of the Fire Commissioner and due to the nature of the hazardous materials and/or the routes and parts of the City involved, special precautions are considered necessary.

6. Regulate the operation of all vehicles within the City. This regulation may extend to, but not be limited to,

(a) The speed at which vehicles may operate in the City;

(b) Vehicles stopping within the City;

(c) The degree to which a driver may leave a vehicle unattended;

(d) The distance that must be maintained between vehicles in transit;

(e) A requirement that vehicles be equipped with radio communications;

(f) A requirement that vehicles be provided with adequate illumination and warning lights;

(g) Requirement that vehicles be placarded "HAZARDOUS CARGO" with identification of that specific hazardous material.

7. Require all carriers to report to the Fire Department every accident within the City involving that carrier's vehicle which results in any of the following:

(a) Injury or fatality;

(b) Continuing danger to life or health at the scene of the accident;

(c) The disabling of the vehicle;

(d) Estimated property damage exceeding one hundred (\$100.00) dollars;

(e) An unintentional release of hazardous material from the vehicle.

NOTE: The carrier shall report the accident to the Fire Department:

(1) By phone or in person immediately after the occurrence of the accident; and

(2) In writing within ten (10) days following the accident on a form to be furnished by the Fire Commissioner.

8. Establish a permit system which requires the following:

(a) That any carriers who wish to operate their vehicles in a manner inconsistent with

this section and/or regulations hereunder be required to obtain a permit from the Fire Commissioner;

(b) That a permit be issued only where compelling need is shown and where transporting hazardous materials is in the public interest;

(c) That permits be granted for a period of one year and be automatically renewed upon application unless revoked for cause after a hearing before the Traffic and Parking Commission;

(d) That permits be revocable and not transferable;

(e) That permits be carried in the cab at all times and that a suitable means be used to allow ready identification of carriers with permits from outside the vehicle;

(f) That annual fees for permits be set as required to defray administrative expenses and as permitted by law;

9. The Fire Commissioners and the Commissioner of Health and Hospitals shall have the authority to promulgate all regulations necessary to give full effect to the provisions of this section. (Ord. 1979 c. 39 § 2) Penalty, see subsection 17-15.8

17-15.3 Suspension of Operations.

The Fire Commissioner may temporarily suspend the operation of some or all vehicles within the City, without notice whenever road, weather, traffic, or other special circumstances warrant that action.

(Ord. 1979 c. 39 § 3)

17-15.4 Authority to Restrict Other Hazardous Materials.

The Fire Commissioner and the Commissioner of Health and Hospitals shall have the authority to promulgate regulations controlling the transportation of the following hazardous materials within the City:

Oxidizers (173.151)

Organic Peroxide (173.151a)

Flammable, Pyrophoric and Combustible Materials (173.115)

Radioactive Materials with Radioactive White I or Yellow 11 label (172.403)

Certain Hazardous Materials which have been identified as posing more than one hazard, for example, uranium hexafluoride which is corrosive and radioactive.
(Ord. 1979 c. 39 § 4)

17-15.5 Authority to Suspend Restriction.

The Commissioner shall have the authority to suspend the aforementioned restrictions, in whole or in part, when extenuating circumstances severely limit transit around the City.
(Ord. 1979 c. 39 § 5)

17-15.6 Delivery of Gasoline and Home Heating Oil.

Nothing in this ordinance shall be construed as prohibiting or interfering with the delivery of home heating oil or gasoline within the City of Boston.
(Ord. 1979 c. 39 § 6)

17-15.7 Reports.

The Fire Commissioner shall compile and submit to the Boston City Council, by February 1 of each year, a written report describing the administration and enforcement of this section, and the regulations issued hereunder, in the calendar year just concluded. This report shall include:

a. A list of permits issued, expired and renewed;

b. A list of accidents reported pursuant to subsection 7-15.2a,7.

c. A list of all noted violations of this section;

d. Other information the Commissioner considers pertinent.
(Ord. 1979 c. 39 § 7)

17-15.8 Violations.

Any person who violates any provision of this section and/or regulations promulgated hereunder shall be punished by a fine of not more than one thousand (\$1,000.00) dollars in accordance with Mass. Gen. Laws Ann., Chapter 148, Section 10B. (Ord. 1979 c. 39 § 8)

17-15.9 Severability.

If any provision or clause of this section or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable. (Ord. 1979 c. 39 § 9)

17-15.10 Fees, Rules and Effective Dates.

The Fire Commissioner and the Commissioner of Health and Hospital shall establish a fee structure to cover the administrative costs of this section.

To satisfy the requirement of publications, the Fire Commissioner shall hold public hearings to provide affected parties with the details of the regulations promulgated under this section.

The effective date of regulations promulgated under this section shall be ninety (90) days after the completion of said public hearings. (Ord. 1979 c. 39 § 10)

Cross-reference:

Transportation of Hazardous Materials by Rail; Prior Notification of Fire Commissioner, Section 17-16.

17-16 TRANSPORTATION OF HAZARDOUS MATERIALS BY RAIL; NOTIFICATION OF FIRE COMMISSIONER.**17-16.1 Notification of Fire Commissioner; Time Required.**

Within a reasonable time, but at least five (5) hours prior to the rail shipment into or within the City

of Boston of any hazardous materials, as defined in Subsection 17-15.1 of 17-15 "Transportation of Hazardous Materials by Motor Vehicles; Regulations," the operator of the rail carrier shall notify the Fire Commissioner of the content, amount, route and destination point, if within the City, of said shipment. In cases where it is impossible to notify the Fire Commissioner within the time required, said operator may apply to the Fire Commissioner for a waiver of said requirement and said waiver may be granted if the Fire Commissioner is satisfied that the public health and safety would not be endangered. (Ord. 1980 c. 5 § 1) Penalty, see subsection 17-16.3

17-16.2 Fire Commissioner's Procedures.

The Fire Commissioner shall record and compile such information in order to ensure adequate response in case of an accident involving a hazardous material. The Commissioner shall notify the Commissioner of Health and Hospitals of any shipment whose spillage or other accident would require an emergency response by the Department of Health and Hospitals. No person shall disclose to a competitor or any person except as necessary to enforce this section, information involved in a business transaction about the nature, kind, quantity, destination, consignee or routing of said shipment if that information may be used to the detriment of the shipper or consignee as provided in 49 USC s. 11910 (a)(1).

(Ord. 1980 c. 5 § 2) Penalty, see subsection 17-16.3

17-16.3 Violations; Penalty.

Any person who knowingly violates the provisions of this section shall be subject to a fine of not more than one thousand (\$1,000.00) dollars. (Ord. 1980 c. 5 § 3)

**17-17 PRUDENTIAL AFFAIRS AND
INTERNAL POLICE; REGISTRATION
OF CERTAIN ARMED SECURITY
GUARDS AND LICENSURE AS
SPECIAL POLICE OFFICERS
OPERATING IN A PUBLIC PLACE.**

Pursuant to M.G.L. Chapter 40, Section 21 and in order to preserve the peace and good order in the City of Boston in public places so as to protect the public safety and maintain the discipline of the internal police, the Police Commissioner is hereby authorized to require private armed security guards or watchmen who operate openly in the presence of the general public in a public place to register as herein provided and to obtain licensure as a special police officer; the Police Commissioner is further authorized to require businesses employing such armed guards or watchmen operating openly in the presence of the general public in public places to register as provided in this section. (Ord. 2010 c. 1)

**17-17.1 Armed Security Guard or
Watchmen Registration.**

Any person employed in the City of Boston as a private security guard or watchman armed with a firearm whose services are performed openly in the presence of the general public in a public place as defined in CBC 17-17.2 below, shall register with the Boston Police Commissioner by submitting supporting documentation:

a. To demonstrate that such person holds a license to carry a firearm pursuant to M.G.L. Chapter 140, Section 131; and, where applicable,

b. To demonstrate that such person is an employee of a licensee authorized to engage in such business pursuant to M.G.L. Chapter 147, Section 122-30; and

c. To identify the location of the public place(s) where such person is or will be assigned or employed as an armed security guard or watchman in Boston.

For purposes of this section only, the term *armed* shall have the meaning as defined in M.G.L. Chapter 140, Section 121. (Ord. 2010 c. 1)

17-17.2 Definition of Public Place.

For the purposes of this section, a *public place* shall be substantially the same as that defined in M.G.L. Chapter 272, Section 92A and shall be deemed to include any place which is open to and accepts or solicits the patronage of the general public such as a retail store or establishment, including those dispensing personal services. For the purposes of this section only, public place shall not include places of entertainment or recreation, restaurants or bars or any public entity whether federal, state, municipal or any political subdivision of the Commonwealth of Massachusetts; nor shall public place include any entity or institution whose armed security guards or watchmen are employed in the capacity of State licensed special police officers pursuant to M.G.L. Chapter 22C, Section 51-68. (Ord. 2010 c. 1)

17-17.3 Business Registration.

Any private entity in the City of Boston conducting business within a public place that hires a private armed security guard whose assignment for any duration is to guard persons or property in such a public place openly in the presence of the general public as described in CBC 17-17.7 shall register all required information as provided for by such rules or regulations promulgated from time to time by the Police Commissioner pursuant to this ordinance. However, such registration requirement may be delegated by contract to any person licensed under M.G.L. Chapter 147, Section 25. A copy of the delegation shall be submitted to the Police Commissioner. (Ord. 2010 c. 1)

17-17.4 Employment.

Employ or *hire* shall mean assigned or employed directly or indirectly by such business whether part-time, temporary or on a permanent basis regardless of whether the guard is an employee of such business or is employed by a contractor engaged in offering armed security guard services as permitted in M.G.L. Chapter 147, Section 22-30. (Ord. 2010 c. 1)

**17-17.5 Armed Security Guards or
Watchmen Licensed as Special
Police Officers.**

a. Pursuant to M.G.L. Chapter 40, Section 21 and in order to preserve the peace and good order in

such public places so as to protect the public safety and maintain the discipline of the internal police, the Police Commissioner is hereby authorized to require private armed security guards or watchmen employed or assigned in Boston openly and in the presence of the general public as described in CBC 17-17.6, to be licensed by the Police Commissioner as a special police officer. This requirement for licensure as a special police officer by the Police Commissioner shall not apply to armed security guards who are employed in the capacity of a State licensed special police officers pursuant to M.G.L. Chapter 22C, Section 51-68, or those otherwise exempted by CBC 17-17.2.

b. On the application of any individual that the Police Commissioner may deem suitable for licensure as a special police officer, such individual shall serve without pay from the City of Boston, and the corporation or person employing such individual as a special police officer under this section shall be liable for the official misconduct of the officer licensed on such application, as for the torts of any servant or agent in the employ of such corporation or person.

c. A special police officer shall have the power of police officers to preserve order and to enforce the laws and ordinances of the city, in and about any public place as defined in CBC 17-17.2, for which he or she is hired as an armed security guard or watchman to serve openly in the presence of the public as described in CBC 17-17.7.
(Ord. 2010 c. 1)

17-17.6 Renewal and Revocation of Special Police Officer License.

A special police officer licensed under the provisions of this ordinance shall seek renewal of such license annually. The Police Commissioner may annually renew and may at any time for cause, after notice and a hearing, revoke, any such license. An application for a renewal shall be on a form furnished by the Commissioner.
(Ord. 2010 c. 1)

17-17.7 Covered Armed Security Guard or Watchman.

This section shall apply only to private armed security guards or watchmen whose assignment is to guard persons or property openly in the presence of

the general public in a public place and who are not otherwise exempt under this section.
(Ord. 2010 c. 1)

17-17.8 Regulatory Authority; Enforcement and Fees.

The Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce this section pursuant to M.G.L. Chapter 40, Section 21D. Pursuant to St. 1949, c. 222, the Police Commissioner may charge an appropriate fee for such services attendant to the registration and licensure process.
(Ord. 2010 c. 1)

17-17.9 Severability.

If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2010 c. 1)

17-17.10 Implementation.

The provisions of this section regarding registration of businesses and armed security guards shall become effective within one hundred eighty (180) days after passage; however, the provisions of CBC 17-17.5 regarding licensure as special police officers for armed security guards shall become effective thirty (30) days after the Police Commissioner promulgates regulations consistent with this section.
(Ord. 2010 c. 1)

17-17.11 Fines.

Any person serving as a private armed security guard or watchman within the City of Boston without the registration required in CBC 17-17.1 shall be fined in the amount of three hundred (\$300.00) dollars for each week the officer fails to obtain the proper registration. Any business which hires an armed security guard or watchman who has not registered as required in CBC 17-17.1, or if such business fails to register the required information in accordance with CBC 17-17.3 herein described, shall be fined in the amount of three hundred (\$300.00) dollars for each week the business fails to register.
(Ord. 2010 c. 1)

Editor's Note:

Former Section 17-17, Registration of Bicycle Messenger Services and Licensing of Commercial Messengers, previously codified herein and containing portion of Ordinance 1991 c. 7 and was repealed in its entirety by Ordinance 1999 c. 4. This section has been superceded by Chapter 302 of the Acts and Resolves of 1998, "An act providing for registration of bicycle messenger services and licensing of commercial messengers in the City of Boston."

CITY OF BOSTON CODE - ORDINANCES

CHAPTER XVIII

FEES AND CHARGES

Editor's Note:

For a history of many of the fees and charges enumerated in this section, see Rev. Ord. 1961 ch. 30 § 1 and 1971 Cumulative Supplement c. 30 § 1. See also Ord. 1972, c. 5, c. 14; Ord. 1973 c. 2; Ord. 1974 c. 16; Ord. 1975 cs 1, 6; Ord. 1976 c. 3, c. 5, c. 8, c. 11, c. 12, c. 17, c. 18; Ord. 177 c. 1, c. 2, c. 7, c. 9, c. 15, c. 17; Ord. 1978 c. 1, c. 4; Ord. 1979 c. 18, c. 30; Ord. 1981, c. 5-7, c. 9-c 11, c. 13-c. 16, c. 22- c. 31, c. 33-c. 35; Ord. 1982 c. 3, c. 4, c. 5, c. 9, c. 18, c. 27, c. 28, c. 32; CBC 1975 Ord. T12 § 450; Ord. 1985 c. 4, c. 12; Ord. 1986 c. 2, c. 8, c.14, c. 21; Ord. 1987 c. 10; Ord. 1988 c. 8.

18-1 ENUMERATION OF FEES AND CHARGES.

The following fees and charges are hereby fixed under all powers hereunto enabling (including that conferred by Chapter 222 of the Acts of 1949):

18-1.1 "A" Fees and Charges.

1. *Advertising Permit Fee.* The fee for a permit granted by the Commissioner of Public Works under CBC Chapter XVI, subsection 16-2.3 shall be fifty (\$50.00) dollars except that in cases where such a permit is granted for a period longer than one (1) month, the fee therefor shall be fifty (\$50.00) dollars for each monthly period for which it is granted. (Ord. 1976 c. 11; Ord. 1981 c. 25; repealed by Ord. 1997 c. 4, Ch. 1 § 8; Ord. 2007 c. 11)

2. *Alcohol (Methyl or Wood), License to Manufacture or Deal In.* The fee for a license granted by the Board of Health and Hospitals under Section 303B of Chapter 94 of the General Laws to engage in the business described in Section 303A of said Chapter shall be three (\$3.00) dollars. (Ord. 1976 c. 11)

3. *Ammunition, License to Sell.* The fee for a license to sell ammunition granted by the Police

Commissioner under Section 122B of Chapter 140 of the General Laws shall be two hundred twenty-five (\$225.00) dollars.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 1)

4. *Ammunition, License to Store.* The fee for an annual license to store ammunition granted by the Chief of the Fire Department under Section 13 of Chapter 148 of the General Laws shall be seventy-five (\$75.00) dollars.

(Ord. 1976 c. 11; Ord. 1997 c. 2 § 1; Ord. 2011 c. 6)

5. *Appeal to Board of Appeal Under Building and/or Zoning Code.* The fee paid to the Commissioner of Inspectional Services for an appeal to the Board of Appeal under the State Building Code, the Boston Zoning Code, or both, shall be: (a) in the case of a dwelling which would, should the appellant prevail, contain three (3) or less dwelling units and no other use, one hundred fifty (\$150.00) dollars, and (b) in every other case, one hundred fifty (\$150.00) dollars for each condition, provision, use item restriction, or dimensional requirement which is the subject of such appeal.

(Ord. 1981 c. 23 § 2; Ord. 1990 c. 5, Ch. 7 § 1; Ord. 2007 c. 9)

6. *Archery Stamp.* The fee for an Archery Stamp issued by the City Clerk under Chapter 131 of General Laws shall be as prescribed by Section 11 of said Chapter 131.

(Ord. 1976 c. 11)

7. *Assembly Permit to Use Place as Place Of.* The fee for a permit granted by the Chief of the Fire Department under Section 27.02 of the Boston Fire Prevention Code to maintain, operate, and use a place as a place of assembly shall be, for each year in which such permit may be exercised, one hundred twenty-five (\$125.00) dollars in the case of a place of assembly having a lawful capacity of at least fifty (50) persons but fewer than one hundred (100) persons; one hundred ninety (\$190.00) dollars in the case of a place of assembly having a lawful capacity of at least one hundred (100) persons but fewer than two

hundred (200) persons; two hundred (\$200.00) dollars in the case of a place of assembly having a lawful capacity of at least two hundred (200) persons but fewer than three hundred (300) persons; two hundred fifty (\$250.00) dollars in the case of a place of assembly having a lawful capacity of at least three hundred (300) persons but fewer than four hundred (400) persons; six hundred fifty (\$650.00) dollars in the case of a place of assembly having a lawful capacity of at least four hundred (400) persons but fewer than five hundred (500) persons; one thousand two hundred fifty (\$1,250.00) dollars in the case of a place of assembly having a lawful capacity of at least five hundred (500) persons but fewer than four thousand nine hundred ninety-nine (4,999) persons; two thousand five hundred sixty-five (\$2,565.00) dollars in the case of a place of assembly having a lawful capacity of at least five thousand (5,000) persons but fewer than thirteen thousand nine hundred ninety-nine (13,999) persons; and five thousand one hundred twenty-five (\$5,125.00) dollars in the case of a place of assembly having a lawful capacity of more than fourteen thousand (14,000) persons.
(Ord. 1976 c. 11, c. 18; Ord. 1985 c. 4; Ord. 1997 c. 2 § 2; Ord. 2011 c. 6)

8. *Reserved.*

(Ord. 1976 c. 11; Ord. 1981 c. 25; repealed by Ord. 1997 c. 4, Ch. 1 § 9)

9. *Reserved.*

(Ord. 1976 c. 11; Ord. 1981 c. 25; repealed by Ord. 1997 c. 4, Ch. 1 § 10)

9A. *Assessor's City Block Maps.* The charge to be paid for a City block map made or kept by the Commissioner of Assessing shall be ten (\$10.00) dollars.

(Ord. 1997 c. 4, Ch. 1 § 2)

9B. *Assessor's Computer Generated Maps on Paper.* The charge to be paid for a computer generated map on paper made or kept by the Commissioner of Assessing shall be twenty-five (\$25.00) dollars.

(Ord. 1997 c. 4, Ch. 1 § 3)

9C. *Assessor's Electronic Computer Generated Maps on CD-ROM.* The charge to be paid for an electronic computer generated map on CD-ROM made or kept by the Commissioner of Assessing shall be fifty (\$50.00) dollars.

(Ord. 1997 c. 4, Ch. 1 § 4)

10. *Assessor's Plans, Copies Of.* The charge to be paid for copies of engineering survey plans made or kept by the Commissioner of Assessing shall be ten (\$10.00) dollars for each copy of one full-sized plan and five (\$5.00) dollars for each copy of one reduced size plan.

(Ord. 1976 c. 11; Ord. 1981 c. 25; Ord. 1997 c. 4, Ch. 1 § 1)

10A. *Assessor's Property Record Cards.* The charge to be paid for a property Record Card made or kept by the Commissioner of Assessing shall be five (\$5.00) dollars.

(Ord. 1997 c. 4, Ch. 1 § 5)

10B. *Assessor's Property Tax Record, Printout Of.* The charge to be paid for a printout of a property tax record furnished by the Commissioner of Assessing shall be four (\$4.00) dollars for a stamped copy, and two (\$2.00) dollars for an unstamped copy. There will be no charge if the request is made by the owner of the property.

(Ord. 1997 c. 4, Ch. 1 § 6)

10C. *Assessor's Tax Data Administration Tapes.* The charge to be paid for a tax data administration tape compiled by the Commissioner of Assessing shall be one hundred eighty (\$180.00) dollars

(Ord. 1997 c. 4, Ch. 1 § 7)

10D. *Assessor's Tax Data Administration Laser Printouts.* The charge to be paid for tax data administration laser printouts compiled by the Commissioner of Assessing shall be one hundred eighty (\$180.00) dollars for printouts of one (1) through five (5) wards, two hundred thirty (\$230.00) dollars for printouts of six (6) through ten (10) wards, two hundred eighty (\$280.00) dollars for printouts of eleven (11) through sixteen (16) wards, and three hundred thirty (\$330.00) dollars for printouts of seventeen (17) through twenty-two (22) wards.

(Ord. 1997 c. 4, Ch. 1 § 11)

10E. *Assessor's Property Parcel Data (Lite Version) on Diskettes.* The charge to be paid for property parcel data (lite version) on diskettes compiled by the Commissioner of Assessing shall be thirty-four (\$34.00) dollars.

(Ord. 1997 c. 4, Ch. 1 § 12)

10F. *Assessor's Property Parcel Data (Full Version) on CD-ROM.* The charge to be paid for property parcel data (full version) on CD-ROM

compiled by the Commissioner of Assessing shall be seventy-eight (\$78.00) dollars.
(Ord. 1997 c. 4, Ch. 1 § 13)

11. *Assignment f/b/o Creditors.* The fee of the City Clerk for filing and indexing a copy of an assignment for the benefit of creditors under Section 41 of Chapter 203 of the General Laws shall be ten (\$10.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

12. *Assignment of Wages.* The fee for the City Clerk for recording under either Chapter 154 or Chapter 255 of the General Laws an assignment of, or order for, future wages and salary, including any acceptances thereof by the employer, shall be five (\$5.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

13. *Association Merged Into Corporation.* The fee of the City Clerk for receiving and filing under Section 46A of Chapter 156 of the General Laws a copy, certified by the Secretary of the Commonwealth, of articles of amendment in connection with the merger of an association into a corporation or a certificate issued pursuant to Section 46F of said Chapter 156 evidencing the filing of such articles with the Secretary, shall be twenty-five (\$25.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1997 c. 4, Ch. 2 § 4)

14. *Attachment of Bulky Personal Property.* The fee of the City Clerk for receiving and filing a certified copy of writ and return of attachment of bulky personal property under Section 51 of Chapter 233 of the General Laws shall be five (\$5.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

15. *Attachment of Bulky Personal Property, Dissolution Of.* The fee of the City Clerk for receiving and filing a dissolution of attachment of bulky personal property shall be five (\$5.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

16. *Attorney.* See "Power of Attorney."

17. *Auction, License of Establishment for Closing Out.* The fee for a license granted by the Police Commissioner under Section 18 of Chapter 100 of the General Laws to conduct or maintain an

establishment for holding an auction represented or advertised by any such descriptive term as is set forth in said Section 18 shall be fifty (\$50.00) dollars.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 3)

18. *Auction, License of Establishment for Sale of Jewelry, Etc., At.* The fee for a license granted by the Police Commissioner under Section 14 of Chapter 100 of the General Laws to conduct or maintain an establishment for the sale at auction of the articles or goods enumerated in said Section 14 shall be fifty (\$50.00) dollars.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 4)

19. *Auctioneer's License (for Resident).* The fee for an auctioneer's license granted by the Police Commissioner under Section 2 of Chapter 100 of the General Laws shall be one hundred (\$100.00) dollars.
(Ord. 1976 c. 11; Ord. 1978 c. 4; Ord. 1985 c. 4 § 5)

20. *Auctioneer's Permit (for Non-Resident to Auction Goods Brought into City for Sale by Auction).* The fee for an annual auctioneer's permit granted by the Police Commissioner under Section 6 of Chapter 100 of the General Laws shall be two hundred fifty (\$250.00) dollars.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 6)

21. *Auctioneer's Permit (for Non-Resident to Auction Jewelry, Etc., at Licensed Establishment).* The fee for a permit to act as an auctioneer issued by the Police Commissioner under Section 14 of Chapter 100 of the General Laws shall be fifty (\$50.00) dollars for a temporary license for a period not to exceed thirty (30) days, or one hundred fifty (\$150.00) dollars per annum.
(Ord. 1976 c. 11; Ord. 1978 c. 4)

22. *Auctioneer's Special License (for Non-Resident to Auction Real Estate, Livestock and General Farm Equipment and Produce).* The fee for a special auctioneer's license granted by the Police Commissioner under Section 2 of Chapter 100 of the General Laws shall be ten (\$10.00) dollars for each of the days for which it is granted, but not less than fifty (\$50.00) dollars.
(Ord. 1976 c. 11; Ord. 1978 c. 4)

23. *Automatic Amusement Device License.* The annual fee for a license granted by the Licensing Board under Section 177A of Chapter 140 of the

General Laws for any automatic amusement device licensed thereunder shall be one hundred forty (\$140.00) dollars. The fee for any such license granted after January thirty-first in any year shall be ten (\$10.00) dollars for each calendar month in which the license may be exercised.

(Ord. 1976 c. 11; Ord. 1981 c. 35)

24. *Automobile Wrecking Yard Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 3.02 of the Boston Fire Prevention Code to conduct or maintain an automobile wrecking yard shall be five hundred seventy-five (\$575.00) dollars annually.

(Ord. 1976 c. 11; Ord. 1981, c. 22; Ord. 1985 c. 4 § 7; Ord. 1990 c. 5, Ch. 6 § 2; Ord. 1997 c. 2 § 3; Ord. 2011 c. 6)

18-1.2 "B" Fees and Charges.

1. *Badges, Medallions and Plates, Replacement of Lost.* Except as otherwise provided in this section, the fee of any board or officer for replacing any lost badge, medallion, or plate shall be ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 7)

2. *Bakery Permit.* The fee for a permit granted under subsection 16-1.4A shall be one hundred (\$100.00) dollars for each one thousand (1,000) square feet, or portion thereof, devoted to the manufacture of baked goods, including storage of raw materials, baking, packaging, etc., but excluding any area devoted to the display of baked goods for sale at retail, and provided, that in the case of a bakery inspected by the Department of Public Health of the Commonwealth, the fee hereunder shall be reduced by the amount, if any, paid to the Commonwealth in connection with such inspection.

(Ord. 1976 c. 11; Ord. 1977 c. 9; Ord. 1981 c. 34; Ord. 1990 c. 5, Ch. 7 § 2; Ord. 2007 c. 9)

3. *Baths (Vapor, Pool, Shower or Other).* The fee for an annual license granted by the Board of Health and Hospitals under Section 51 of Chapter 140 of the General Laws to conduct an establishment for the giving of vapor, pool, shower or other baths for hire or reward shall be two hundred (\$200.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 34)

4. *Beast, Determination of Amount Due from Owner of Impounded.* The fee of the City Clerk for

issuing a warrant under Section 36 of Chapter 49 of the General Laws shall be one (\$1.00) dollar.

(Ord. 1976 c. 11)

5. *Beverage Bottles.* See "Registration of Beverage Bottles."

6. *Beverages, Manufacture or Bottling Of.* The fee for a permit granted by the Board of Health and Hospitals under Section 10B of Chapter 94 of the General Laws to engage in the business of manufacturing or bottling carbonated nonalcoholic beverages, soda waters, mineral or spring waters shall be four hundred (\$400.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 34)

7. *Bicycle Registration.* The fee for the registration of a bicycle and the issuance of a certificate of registration and registration plate by the Police Department under Section 11A of Chapter 85 of the General Laws shall be one (\$1.00) dollar provided, however, that the fee for the registration of a bicycle by an establishment dealing in the rental of bicycles shall be two (\$2.00) dollars for each bicycle.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 8)

8. *Bicycle Registration, Duplicate Plate.* The charge of the Police Department for replacing a lost bicycle registration plate shall be twenty-five (\$.25) cents.

(Ord. 1976 c. 11)

9. *Bills of Sale.* See "Personal Property Mortgages, Etc."

10. *Birth, Entry of Delayed Record Of.* The fee of the City Registrar for entering under Section 13 or Section 13A of Chapter 46 of the General Laws a delayed record of birth shall be fifty (\$50.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 1985 c. 4 § 9; Ord. 1990 c. 5, Ch. 9 § 1; Ord. 1996 c. 5 § 4; Ord. 2003 c. 7 § 1)

11. *Reserved.*

(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 1990 c. 5, Ch. 9 § 2; Repealed by Ord. 2003 c. 9 § 1)

12. *Birth, Marriage or Death, Amendment, Correction, or Supplementation of Record Of.* The fee

of the City Registrar for amending, correcting, or supplementing under Section 13 of Chapter 46 of the General Laws the record of the birth, marriage, or death, including amending thereunder the record of the birth of an illegitimate child upon legitimation, shall be fifty (\$50.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 1985 c. 4 § 10; Ord. 1990 c. 5, Ch. 9 § 3; Ord. 1996 c. 5 § 5; Ord. 2003 c. 8 § 1)

13. *Birth, Marriage or Death, Certificate as to Record Of.* The fee of the City Registrar for furnishing a certificate as to the record of a birth, marriage, or death shall be twelve (\$12.00) dollars and in the case of a certificate as to the record of a birth an additional fee of forty (\$40.00) dollars if the request is made on a weekend or a holiday.

(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 1985 c. 4 § 11; Ord. 1990 c. 5, Ch. 9 § 4; Ord. 1996 c. 5 § 6; Ord. 2003 c. 4 § 1)

14. *Births, Marriage, and Deaths, Copy of Record Of.* The fee of the City Registrar for furnishing a certified copy of a record or paper relating to a birth, marriage, or death shall be twelve (\$12.00) dollars for each page or part thereof.

(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 1985 c. 4 § 12; Ord. 1990 c. 5, Ch. 9 § 5; Ord. 2003 c. 3 §§ 1, 2)

14A. *Births, Marriages, or Deaths, Mailing a Copy or Copies of a Record Of.* The City Registrar shall add a surcharge of three (\$3.00) dollars, plus the costs of special delivery or express mail services if requested and utilized, for mailing a copy or copies of records of births, marriages, or deaths.

(Ord. 1997 c. 4, Ch. 3 § 1)

15. *Births, Marriage, and Deaths, Search of Records Of.* The fee of the City Registrar for searching, or causing to be searched, upon request, records or papers relating to births, marriages, or deaths shall be ten (\$10.00) dollars for each hour or fraction thereof.

(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 1985 c. 4 § 13; Ord. 1990 c. 5, Ch. 9 § 6; Ord. 1996 c. 5 § 1; Ord. 2003 c. 6 § 1)

16. *Blasting Bond.* The fee of the City Clerk for receiving and filing a bond given under Section 19 of Chapter 148 of the General Laws in connection with a permit to use an explosive in the blasting of rock or other substance shall be twenty-five (\$25.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 13)

17. *Blasting Permit.* The fee for a permit granted by the head of the Fire Department under Section 10A of Chapter 148 of the General Laws to use explosives shall be one hundred (\$100.00) dollars for each blast or series of concomitant blasts thereby authorized.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 4; Ord. 2011 c. 6)

18. *Boat License.* The fee for a license to run a steamboat or other boat propelled by power other than muscular power for the conveyance for hire of passengers on a lake, pond, or waters not within the maritime jurisdiction of the United States granted by the City Council under Section 191 of Chapter 140 of the General Laws shall be fifty (\$50.00) dollars and the fee of the City Clerk for recording such license under Section 192 of said Chapter 140 shall be one (\$1.00) dollar.

(Ord. 1976 c. 11)

19. *Reserved.*

(Ord. 1976 c. 11; Ord. 1982 c. 5; repealed by Ord. 2004 c. 9 § 2)

20. *Bowling Alley License.* The fee for a license to keep a bowling alley for hire, gain, or reward granted by the licensing board under Section 177 of Chapter 140 of the General Laws shall be a primary fee of forty (\$40.00) dollars and an additional fee of twenty (\$20.00) dollars for each alley or bed.

(Ord. 1976 c. 11; Ord. 1981 c. 35)

21. *Bowling Alley Refinishing Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 4.02 of the Boston Fire Prevention Code to refinish bowling pins, or resurface bowling alleys, or both, using flammable liquids or materials, shall be one hundred (\$100.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 5; Ord. 2011 c. 6)

22. *Builder's or Mechanic's License.* The fee for an application for a license granted by the Board of Examiners under Section 120 of Chapter 479 of St. 1938 and classified by said Board under paragraph (c) of said section as an ABC license shall be fifty (\$50.00) dollars; provided, that the fee for an application for a renewal of such a license shall be, if paid on or before or within thirty (30) days after the expiration date of the license renewed, thirty (\$30.00) dollars, otherwise, thirty-five (\$35.00) dollars. The fee for an application for any other license or combination of licenses granted by the Board of Examiners under said Section 120 shall be forty (\$40.00) dollars; provided, that the fee for an application for a renewal of such license, for which the fee is paid on or before or within thirty (30) days after the expiration date of the license renewed, shall be thirty (\$30.00) dollars, otherwise, thirty-five (\$35.00) dollars. No license shall be issued under this section until the licensee shall have certified that he owns a copy of the State Building Code. The fee to be charged by the Board of Examiners for the replacement of any lost license shall be five (\$5.00) dollars. Each fee fixed by this clause shall include the cost of the photograph of the licensee contained in the license. The Board of Examiners may refund, only in the case of an applicant who takes and fails the qualifying examination, but in no other case, one-half (½) of the fee paid.
(Ord. 1976 c. 11; Ord. 1979 c. 30; Ord. 1981 c. 23; Ord. 1985 c. 4 § 14)

23. *Building Construction and Demolition Permit.* The fee of the Chief of the Fire Department under Section 7.02 of the Boston Fire Prevention Code for reviewing an application for a permit under Section 113 of the Commonwealth of Massachusetts Building Code to construct or demolish a building or structure shall be a primary fee of one hundred sixty-five (\$165.00) dollars and an additional fee of twenty-two (\$22.00) dollars for each story above three (3) in the building or structure to be constructed or demolished and a further additional fee of five (\$5.00) dollars for each full five thousand (5,000) cubic feet in such building or structure as measured by the outer side of the outside walls, the exterior of the roof and the base of the foundation walls.
(Ord. 1985 c. 4 § 16; Ord. 1990 c. 5; Ch. 6 § 3; Ord. 1997 c. 2 § 6; Ord. 2011 c. 6)

24. *Reserved.*
(Ord. 1976 c. 11; Ord. 1981 c. 28; repealed by Ord. 1990 c. 5, Ch. 7 § 3)

25. *Building Materials Yard Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 23.01 of the Boston Fire Prevention Code to operate a building materials yard, whether or not including the operation of a woodworking plant on the premises thereof and the storage on such premises of in excess of one hundred thousand (100,000) board feet of lumber, shall be five hundred seventy-five (\$575.00) dollars in advance annually.
(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 17; Ord. 1990 c. 5, c. 6 § 4; Ord. 1997 c. 2 § 7; Ord. 2011 c. 6)

26. *Building Moving Permit.* The fees of the Building Commissioner for receiving an application for a permit under s. 113 of the Commonwealth of Massachusetts Building Code to move a building or structure shall be a primary fee of fifty (\$50.00) dollars and an additional fee of ten (\$10.00) dollars for each five thousand (5,000) cubic feet in the building as measured by the outer side of the outside walls, the exterior of the roof, and the top of the foundation walls.
(Ord. 1976 c. 11)

27. *Building and Demolition Permit.* The fee of the Commissioner of Inspectional Services for receiving an application for a permit under s. 113 of the Commonwealth of Massachusetts State Building Code to construct, reconstruct, alter, repair or demolish a building or structure shall be a primary fee of fifty (\$50.00) dollars plus an additional ten (\$10.00) dollars for each thousand (\$1,000.00) dollars of the fair cost of the work authorized by such permit as determined by said Commissioner. Effective immediately upon passage and through December 31, 2020, the fair cost of work for the construction of a solar photovoltaic system shall exclude the cost of all solar panels and inverters. All other fees and installation permits are still applicable. If an applicant is unsure that building construction, reconstruction, alteration, repair or demolition will actually be undertaken pending decision of the Board of Appeals, then he or she may make a deposit of one-third (1/3) of the cost of a building permit or three hundred (\$300.00) dollars, whichever is less, in return for which the said Commissioner shall receive an

application for a building permit. If the applicant subsequently begins construction within six (6) months of obtaining such decision, the amount of the deposit shall be applied to the cost of the building permit. If the applicant does not begin construction or demolition within such time, the deposit shall not be refunded. The fees of the Commissioner for receiving an application for an amendment of a permit, whether for structural changes or minor alterations shall be a primary fee of twenty (\$20.00) dollars and an additional fee of ten (\$10.00) dollars for each one thousand (\$1,000.00) of the fair cost of the additional work to be authorized by such amendment as determined by the Commissioner; provided, however, that there shall be no primary fee for receiving an application for an amendment wholly required by said Commissioner. The fees of said Commissioner for issuing under s. 114.8 of the State Building Code a special permit for the foundations of a building shall be a primary fee of one hundred (\$100.00) dollars and an additional fee of ten (\$10.00) dollars for each one thousand (1,000) cubic yards or fraction thereof in excess of ten thousand (10,000) cubic yards of excavation. Provided, however, that any applicant seeking refund of a building permit fee in cases where the permit was denied by the Commissioner of Inspectional Services or abandoned by the applicant prior to any work starting under said permit, shall receive reimbursement equal to the fee minus fifty (\$50.00) dollars when the amount of the fee paid totalled one hundred (\$100.00) dollars or more and reimbursement equal to the fee paid minus twenty (\$20.00) dollars when the fee paid totalled less than one hundred (\$100.00) dollars. Any permit issued shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within six (6) months after its issuance; however, for cause, one or more extensions of time, for periods not exceeding six (6) months each, may be granted in writing by the Commissioner; provided that the application for an extension is submitted prior to the expiration of the permit. It is the responsibility of the applicant to furnish all relevant documentation and information for the extension as required by said Commissioner. The fee of the Commissioner for receiving an application for an extension of a permit shall be one hundred (\$100.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 28; Ord. 1976, c. 2 § 1; Ord. 1990 c. 5, Ch. 7 § 4; Ord. 2002 c. 3; Ord. 2010 c. 5; Ord. 2010 c. 10)

28. *Building Plans, Examination Of.* The fee of the Chief of the Fire Department for the examination of building plans as required by the State Building Code shall be one hundred twenty-five (\$125.00) dollars; plus an additional nineteen (\$19.00) dollars for each page over fifteen (15) pages. The fee for preliminary examination of building plans shall be fifty-seven (\$57.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 15; Ord. 1990 c. 5, Ch. 6 § 5; Ord. 1997 c. 2 § 8; Ord. 2011 c. 6)

29. *Building Use or Occupancy, Permit to Change.* The fee of the Commissioner of Inspectional Services for receiving an application for a permit under s. 113 of the Commonwealth of Massachusetts State Building Code to change the use or occupancy of a building or structure shall be fifty (\$50.00) dollars, except that for structures defined in 780 Code of Massachusetts Regulations, as the same may be amended from time to time, as one, two or three family dwelling units in Use Group R, the fee shall be twenty (\$20.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 28; Ord. 1995 c. 8 § 7; Ord. 2010 c. 5)

29A. *Burial, Permit For.* The fee for a permit granted by the Board of Health and Hospitals pursuant to Section 45 of Chapter 114 of the General Laws for the burial, exhumation or other listed transference of a deceased human body shall be ten (\$10.00) dollars. The applicant shall be responsible for furnishing to the Board of Health and Hospitals all necessary documentation as provided by Section 45 of Chapter 114 of the General Laws of Massachusetts.

(Ord. 1990 c. 5, Ch. 1 § 1)

30. *Business Name, Certificate or Statement Relative To.* The fee of the City Clerk for receiving, filing, and indexing a certificate presented under Section 5 of Chapter 110 of the General Laws and for the renewal thereof shall be forty (\$40.00) dollars and for receiving, filing and indexing a statement made in

accordance with said Section 5 shall be twenty-five (\$25.00) dollars; provided, that in the case of the renewal certificates for ten (10) or more businesses, all of which are conducted at the same address by the same corporate or non-corporate person, said person may file one (1) certificate with a schedule of said businesses or names attached thereto, for which the fee shall be twenty-five (\$25.00) dollars for each business or name listed on said schedule.

(Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1985 c. 4 § 18; Ord. 1987 c. 8 §§ 1, 2; Ord. 1990 c. 5, Ch. 2 § 1; Ord. 1997 c. 4, Ch. 2 § 1)

31. *Business Name, Certified Copy of Certificate or Certificate or Statement Relative To.* The fee of the City Clerk for furnishing a certified copy of a certificate or statement filed under Section 5 of Chapter 110 of the General Laws other than the copy issued at the time of the filing shall be ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1990 c. 5, Ch. 2 § 2)

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

18-1.3 "C" Fees and Licenses.

1. *Canine Guards, Registration of Establishment Protected By.* The fee to be paid to the Chief of the Fire Department by any person having control of a mercantile, commercial or industrial establishment protected by canine guards, and required so to notify said Chief by Section 28B of Chapter 148 of the General Laws, shall be forty (\$40.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 9; Ord. 2011 c. 6)

2. *Carousel License.* The fee for a license granted by the Mayor under Section 186 of Chapter 140 of the General Laws to establish, keep open, and maintain a carousel at a carnival shall be fifteen (\$15.00) dollars for each day on which such a license may be exercised. The fee for a license so granted to establish, keep open, and maintain a carousel other than at a carnival shall be fifty (\$50.00) dollars for each monthly period in which such license may be

exercised, except that in the case of a carousel exclusively for children under age thirteen (13), such fee shall be twenty-five (\$25.00) dollars for each such monthly period.

(Ord. 1976 c.11)

3. *Caterers, Permit for Out of Town.* The fee for a permit issued by the Division of Health Inspections, Inspectional Services Department, under Subsection 16-1.7 and a registration issued by a Division of Health Inspections, Inspectional Services Department under the State Sanitary Code to a caterer whose establishment is not located within the City and is, therefor, not licensed by the Division of Health Inspections, Inspectional Services Department, but who conducts business within the City shall be, collectively:

(a) Ten (\$10.00) dollars for each function catered within the City for groups of less than two hundred (200) people; and

(b) Twenty-five (\$25.00) dollars for each function catered within the City for groups of more than two hundred (200) people.

(Ord. 1981 c. 34)

4. *Catering Establishment, Permit For.* The fee for a permit granted by the Division of Health Inspections, Inspectional Services Department, under the State Sanitary code for the operation of a catering establishment shall be three hundred twenty-five (\$325.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 34; Ord. 1991 c. 5 § 5)

5. *Cemetery, Permit For.* The fee for a permit granted by the Mayor and City Council under Section 34 of Chapter 114 of the General Laws to use land for burial purposes shall be five hundred (\$500.00) dollars.

(Ord. 1976 c. 11; Ord. 1982 c. 3)

6. *Cemetery Charges.* The charge to be paid to the Cemetery Division of the Parks and Recreation Department, provided no charge shall be made for the initial interment of sworn member of the police or fire departments of the City who dies in the line of duty. Cemetery fees shall be as follows:

Single Grave Purchase (2 people)	\$500
(Burial of 1st person)	
Grave Opening Charge	\$798
Weekday prior to 3 p.m.	
Grave Re-opening Charge	\$798
(Burial of 2nd person)	
Perpetual Care	\$456
Foundation Charge	\$218
Double Crypt Fee	\$1,600
Liner Cover Installation	\$10
City Poor	\$250
Cremated Remains (Interments)	
Single Grave Purchase	\$500
Grave Opening	\$226
Perpetual Care	\$456
Foundation	\$218
Grave Re-opening	\$226
Cremated Remains (Wall Niches)	
Single Grave Purchase	\$650
Niche Opening	\$100
Perpetual Care	\$650
Niche Re-opening	\$100
Other Grave Opening Charges	
Weekdays after 3 p.m. (additional charge)	\$226
Saturdays prior to 3 p.m.	\$970
Saturdays after 3 p.m. (additional charge)	\$321
Baby up to 6 months (weekdays)	\$167
Baby up to 6 months (Saturdays)	\$202

Other Grave Opening Charges (Cont'd)	
Cremated Remains (weekdays)	\$226
Cremated Remains (Saturdays)	\$273
Handling Charges	
Removal	\$2,193
Transportation Removal (Grave to Grave within Cemetery)	\$226
Handling Infant Removal	\$109
Handling Cremated Remains	\$109
Disinterments	
Removal	\$2,193
Transportation Removal (Grave to Grave within Cemetery)	\$226
Handling Infant Removal	\$109
Handling Cremated Remains	\$109

In each year from 2013 through 2016, the maximum increase for any cemetery fee identified in this section or any other shall not exceed five percent (5%) of the previous year's change. Nothing in the ordinances shall prohibit the Commissioner from establishing new fees categories for new services with the approval of the Parks and Recreation Commission. All fees will be reviewed by the City Council in 2016. (Ord. 1976 c. 11; Ord. 1981 c. 31; Ord. 1990 c. 1 § 1; Ord. 2001 c. 2; Ord. 2011 c. 16)

7. Reserved.
(Ord. 1976 c. 11; Ord. 1990 c. 1 § 2; Repealed by Ord. 2001 c. 2)

8. *Cemetery, Recording of Deed to Grave or Lot In.* The fee of the Parks and Recreation Commission for recording as agent of the City Clerk under Section 51 of Chapter 550 of the Acts of 1948 a deed to a grave or lot in any cemetery belonging to the City shall be five (\$5.00) dollars, provided that there shall be no fee for so recording a deed of the City executed under Subsection 7-5.3 (Ord. 1976 c.11)

9. *Cesspool, Permit for Emptying Of.* The fee for a permit to empty a cesspool, vault or privy granted by the Board of Health and Hospitals under Subsection 16-1.23 shall be seventy-two (\$72.00) dollars per year.
(Ord. 1976 c. 11; Ord. 1981 c. 34)

10. *Chemicals, Permit to Handle and Store Hazardous.* The fee for an annual permit granted by the Chief of the Fire Department under Section 20.03 of the Boston Fire Prevention Code to handle and store corrosive liquids, oxidizing materials, or poisonous gas shall be a primary fee of seventy (\$70.00) dollars and an additional fee equal, in the case of fluids, to thirty-two (\$32.00) dollars for each one thousand (1,000) of the first ten thousand (10,000) gallons thereof; fifteen (\$15.00) dollars for each one thousand (1,000) of the next ninety thousand (90,000) gallons thereof; ten dollars (\$10.00) dollars for each ten thousand (10,000) gallons of the next four million nine hundred thousand (4,900,000) gallons thereof; and eight (\$8.00) dollars for each one hundred thousand (100,000) gallons in excess of five million (5,000,000) gallons; and in the case of solids, to eight (\$8.00) dollars for each one thousand (1,000) of the first ten thousand (10,000) pounds thereof; and eight (\$8.00) dollars for each ten thousand (10,000) pounds of the next ninety thousand (90,000) pounds thereof; and eight (\$8.00) dollars for each one hundred thousand (100,000) pounds of the next forty-nine million nine hundred thousand (49,900,000) pounds thereof; and eight (\$8.00) dollars for each one million (1,000,000) pounds thereof in excess of fifty million (50,000,000) pounds; and in the case of gases, to eight (\$8.00) dollars for each one hundred (100) cubic feet of the first one thousand (1,000) cubic feet thereof; eight (\$8.00) dollars for each one thousand (1,000) cubic feet of the next four hundred ninety-nine thousand (499,000) cubic feet thereof; and eight (\$8.00) dollars for each ten thousand (10,000) cubic feet thereof in excess of five hundred thousand (500,000) cubic feet. The fee for a permit granted as aforesaid for any period other than a year shall be, for each calendar month in which such permit may be exercised, one-twelfth (1/12) of the fee for an annual permit.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 19; Ord. 1990 c. 5, Ch. 6 § 6; Ord. 1997 c. 2 § 10; Ord. 2011 c. 6)

11. *Chiropodist's Certificate.* The fee of the City Clerk for recording under Section 21 of Chapter 112 of the General Laws the name and address of a registered chiropodist and the date and number of his certificate shall be ten (\$10.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

12. *Church Records, Certified Copies Of.* The fee of the City Clerk, and of the City Registrar, for furnishing a certified copy of any record or registry in his custody under Section 16 of Chapter 66 of the General Laws shall be twelve (\$12.00) dollars for each page or part thereof.
(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 2003 c. 2 § 1)

12A. *City Clerk, Certifications by.* The fee for a certification by the City Clerk that the signer of a document is the holder of the City office indicated and that the signature is valid, or that a document is a true copy, shall be five (\$5.00) dollars.
(Ord. 1992 c. 5)

13. *City Clerk for Notarizing of Documents.* The fee of the City Clerk, or any employee while in the office thereof, for notarizing a document or paper, except for those documents or papers which relate to official City business, shall be two dollars and fifty (\$2.50) cents.
(New; Ord. 1981 c. 13)

14. *City Clerk, Recording of Instruments By.* The fee of the City Clerk for recording an instrument or paper shall, except as otherwise expressly provided by this section, be two (\$2.00) dollars for each page or part thereof, provided that the minimum charge shall be five (\$5.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

14A. *City Hall Plaza, Rental of.* The fee of the Commissioner of Property Management for use of City Hall plaza shall be two hundred (\$200.00) dollars per hour for a minimum of four (4) hours plus a non-refundable application fee of twenty-five (\$25.00) dollars for non-ticketed events open to the public lasting no longer than two (2) days. The hourly fee may be pro-rated by square foot or by defined section of the plaza to be occupied at the discretion of the Commissioner. An additional non-refundable application fee of twenty-five (\$25.00) dollars shall be required for events determined by the Commissioner to require a hearing before the Committee on Special Events and shall be paid to the Director of the Mayor's Office of Tourism and Special Events. Rental of the Plaza for ticketed events or events longer than two (2) days shall also be subject to the appropriate rental fees as established by the Commissioner of Property Management pursuant to Section 11-7.14 of the Code. All events are subject to any rules or regulations as established by the Commissioner with regard to custody and care of City Hall Plaza.
(Ord. 2012 c. 4)

15. *Claims.* The fee of the City Clerk for receiving and indexing a claim against the City (excepting claims of indemnification for municipal employees and retired municipal employees) or, for filing a demand for compensation upon the Mayor, shall be five (\$5.00) dollars; provided, however, that in the event a decision is rendered on behalf of the claimant, the cost of said fee shall be made part of the compensation awarded as a result thereof; and provided further that an otherwise adequate notice shall not be deemed untimely if unaccompanied by said fee.

(New; Ord. 1981 c. 13)

16. *Closing Out Sales.* The fee of the City Clerk for receiving and filing an inventory, bond, and statement under Section 28A of Chapter 93 of the General Laws for a sale with any such designation as is set forth in said Section 28A shall be thirty (\$30.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1990 c. 5, Ch. 2 § 3)

17. *Club License.* The fee for a license granted by the licensing board under Section 21E of Chapter 140 of the General Laws to a club, society, association or other organization to dispense food and beverages to be consumed on the premises shall be one hundred (\$100.00) dollars.

18. *Combustible Metals, Permit to Process.* The fee for an annual permit granted by the head of the Fire Department under Section 6.02 of the Boston Fire Prevention Code to melt, cast, heat treat, machine and grind more than ten (10) pounds of, but not limited to, aluminum, iron, magnesium, titanium, zinc, and zirconium per working day or to do any one or more said things shall be five hundred seventy-five (\$575.00) dollars per year in which such permit may be exercised.

(Ord. 1985 c. 4 § 20; Ord. 1990 c. 5, Ch. 6 § 7; Ord. 1997 c. 2 § 11; Ord. 2011 c. 6)

18A. *Commercial Bicycle Messenger*. See "Bicycle Messenger."

18B. *Commercial Bicycle Messenger Service*. See "Uniform Commercial Code."

19. *Commercial Code*. See Financing Statement under "Uniform Commercial Code."

20. *Commissions of Constables*. The fee of the City Clerk for issuing the commission of a constable shall be four hundred fifty (\$450.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1985 c. 4 § 21; Ord. 1990 c. 5, Ch. 2 § 4; Ord. 2003 c. 23 § 1)

21. *Commissions of Weighers, Etc.* The fee of the City Clerk for issuing the commission of a Weigher, Measurer, or Surveyor appointed under Section 85 of Chapter 41 of the General Laws, or of a Public Weigher of Fish appointed under Section 89 of said Chapter 41, or of a Weigher of Beef appointed under Section 140 of Chapter 94 of the General Laws, or of a Weigher of Grain appointed under Section 219 of said Chapter 94, or of a Weigher of Coal appointed under Section 238 of said Chapter 94, or of an Inspector of Lime appointed under Section 262 of said Chapter 94, or of a Measurer of Wood and Bark provided for by Section 296 of said Chapter 94, or of a Measurer of Leather appointed under Section 1 of Chapter 95 of the General Laws, or of a Weigher of Vessels appointed under Section 6 of Chapter 102 of the General Laws shall be fifty (\$50.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1990 c. 5, Ch. 2 § 5)

22. *Common Victualler's License*. The fee for a Common Victualler's License granted by the Licensing Board under Section 2 of Chapter 140 of the General Laws shall, effective July 1, 1982, be a primary fee of sixty (\$60.00) dollars annually, plus an additional fee of one (\$1.00) dollar per annum, per seat, or place for the accommodation of patrons; provided, however, that no establishment shall pay more than five hundred (\$500.00) dollars per annum in additional fees. The primary fee for any such license granted after January thirty-first in any year

shall be, for each calendar month in which such license may be exercised, one-twelfth (1/12) of the primary fee for an annual permit. In the case of an establishment which prepares on-premises food or drink for on premises consumption, if as sold, such food or drink is ready for take-out, there shall be a minimum fee of one hundred seventy (\$170.00) dollars; provided, however, that establishments which sell exclusively ice cream products shall be subject to the primary fee and additional fee of one (\$1.00) dollar per seat, or place, for accommodation of patrons. Any fee received in 1982 which exceeds the amounts due when prorated and calculated for the period commencing July 1, 1982, shall be abated and applied as credit toward subsequent fee renewals or shall be returned to licensees, provided that claim for same is filed with the licensing board of the City of Boston prior to January 1, 1983.

(Ord. 1976 c. 11; Ord. 1977 c. 1, c. 9; Ord. 1981 c. 35; Ord. 1982 c. 27)

23. *Community Antennas Television System*. The annual fee for a license granted by the Mayor of the City of Boston under Chapter 166A of the General Laws to construct, install, operate and maintain a cable television system in the public ways and places of the City of Boston shall be three (3%) percent of the annual gross revenue of the licensee. "Gross Revenue" shall be defined under such license. The fee shall be payable as established under such license. (Ord. 1982 c. 35)

24. *Constable Training Course Fee*. The fee for the Constable Training Course shall be set by the Mayor and shall not exceed one hundred (\$100.00) dollars.

(Ord. 1982 c. 9; Ord. 1985 c. 4 § 22)

25. *Copies of Duplicates of Licenses and Permits*. Except as otherwise expressly provided by ordinance or statute, the fee for a certified copy or duplicate of any license or permit shall be five (\$5.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

26. *Cows, Permit to Keep*. The fee for an annual permit from the Board of Health and Hospitals to keep cows, whether granted under subsection 16-1.13 or under a regulation made by such Commissioner under

Section 31 of Chapter 111 of the General Laws, shall be twenty-five (\$25.00) dollars for each cow.
(Ord. 1976 c.11)

18-1.4 "D" Fees and Charges.

1. *Dancing School License.* The fee for a dancing school license granted by the Mayor under Section 185H of Chapter 140 of the General Laws shall be one hundred (\$100.00) dollars except that in the case of a dancing school exclusively for children under eighteen (18) such fee shall be twenty-five (\$25.00) dollars.
(Ord. 1976 c. 11)

2. *Day Care Agencies.* The fee for a license to conduct an agency giving day care to children granted by the Board of Health and Hospitals under Section 59 of Chapter 111 of the General Laws shall be five (\$5.00) dollars.
(Ord. 1976 c. 11)

3. *Deaths.* See "Births, Marriages, and Deaths."

4. *Decorations, Furnishing and Interior Finish, Test For.* The charge to be paid for a determination by the testing laboratory in the Fire Department of the flammability of a sample of decorative material required by lawful rules of the head of said department to have a letter of approval before use in a public building or place of assembly shall be twenty (\$20.00) dollars. If on site inspection is required the fee shall be ninety (\$90.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 24; Ord. 1997 c. 2 § 12; Ord. 2011 c. 6)

5. *Directional Sign.* The charge to be paid for the erection by the Commissioner of Traffic and Parking of a directional sign upon the request of a charitable, religious, educational, literary, recreational, social, civic, or veterans' organization or of a hospital shall be one hundred fifty (\$150.00) dollars which shall include maintenance for five (5) years.
(Ord. 1976 c. 11; Ord. 1981 c. 33; Ord. 1985 c. 4 § 23)

6. *Dog License.* The fee for a dog license issued by the Animal Control Unit of the Property Management Department under Section 147 of

Chapter 140 of the General Laws shall be, in the case of a male dog or of a spayed female dog for which the certificate required by Section 139 of said Chapter 140 has been filed with the Animal Control Unit, fifteen (\$15.00) dollars; and in the case of any other female dog, thirty (\$30.00) dollars; except that a dog license shall be issued without charge in the case of a dog specially trained to lead or serve a blind person if the Division of the Blind of the Commonwealth certifies that such dog is so trained and actually in the service of a blind person.

(Ord. 1976 c. 11; Ord. 1996 c. 8 §§ 7, 8; Ord. 2000 c. 4 §§ 7, 8; Ord. 2004 c. 13 § 3)

7. *Dog License, Change in Record Of.* The fee of the Animal Control Unit of the Property Management Department for changing under Section 138 of Chapter 140 of the General Laws the record of a dog license to show the name and address of a new owner or keeper shall be eight (\$8.00) dollars.
(Ord. 1976 c. 11; Ord. 1996 c. 8 §§ 7, 8; Ord. 2000 c. 4 §§ 7, 8; Ord. 2004 c. 13 § 3)

8. *Dogs, Spayed Female.* The fee of the Animal Control Unit for receiving and filing under Section 139 of Chapter 140 of the General Laws a certificate or statement that a female dog has been spayed and thereby deprived of the power of propagation shall be eight (\$8.00) dollars
(Ord. 1976 c. 11; Ord. 1996 c. 8 § 8; Ord. 2000 c. 4 §§ 7, 8; Ord. 2004 c. 13 § 3)

9. *Dog Tag, Substitute.* The fee for a substitute dog tag furnished by the Animal Control Unit of the Property Management Department under Section 137 of Chapter 140 of the General Laws shall be eight (\$8.00) dollars.
(Ord. 1976 c. 11; Ord. 1996 c. 8 §§ 7, 8; Ord. c. 4 §§ 7, 8; Ord. 2004 c. 13 § 3)

10. *Dog Transfer License.* The fee for a dog transfer license granted by the Animal Control Unit of the Property Management Department under Section 146 of Chapter 140 of the General Laws shall be eight (\$8.00) dollars.
(Ord. 1976 c. 11; Ord. 1996 c. 8 §§ 7, 8; Ord. 2000 c. 4 §§ 7, 8; Ord. 2004 c. 13 § 3)

11. *Dry-Cleaning and Dry-Dyeing Plant Permit.* The fee for a permit granted by the Chief of the Fire Department under paragraph (c) of Section 16.03 of

the Boston Fire Prevention Code to operate a dry-cleaning or dry-dyeing plant shall be five hundred twenty-five (\$525.00) dollars annually.

(Ord. 1976 c.11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 25; Ord. 1997 c. 2 § 13; Ord. 2011 c. 6)

12. *Dump, Assignment of Place For.* The fee for the assignment by the Board of Health and Hospitals under Section 150A of Chapter 111 of the General Laws of a place as a dumping ground for garbage, rubbish, or other refuse shall be five hundred (\$500.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 34)

13. *Dump Permit.* The fee for an annual permit granted by the Board of Health and Hospitals to deposit or dump refuse or noxious or decaying liquid or solid matter or house dirt, house offal, or other house refuse matter, granted under Section 23-1 of these ordinances, shall be four hundred (\$400.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 34; Ord. 1991 c. 5 §§ 12, 28)

14. *Duplicate Receipt.* The charge to be paid for the issuance by any Board or Officer of the City of a duplicate receipt for any payment shall be one (\$1.00) dollar.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Acts of 1986.

18-1.5 "E" Fees and Charges.

1. *Eggs, License to Break and Can.* The fee for an annual license granted by the Board of Health and Hospitals under Section 89 of Chapter 94 of the General Laws to carry on an establishment for the breaking and canning of eggs shall be one hundred (\$100.00) dollars.

(Ord. 1976 c. 11)

1A. *Elections, Research of Records Of.* The charge of the Board of Election Commissioners for

special information which is not normally compiled for public distribution and which requires research services of a Board employee shall be twenty-five (\$25.00) dollars per staff hour, or any portion thereof, attributed to the production of such information, plus any additional charges incidental thereto; provided, however, that if the research services required are for thirty (30) minutes or less, such charge shall be ten (\$10.00) dollars.

(Ord. 1990 c. 5, Ch. 4 § 1)

2. *Electrical Wiring and Fixtures, Written Notice of Approval or Disapproval of Installation or Repair Of.* The fee of the Commissioner of Inspectional Services for giving under Section 3L of Chapter 143 of the General Laws written notice of his approval or disapproval of the installation or repair of electrical wiring or fixtures shall be as follows:

(a) *Meter Loop.* A primary fee of ten (\$10.00) dollars plus for each meter loop approved or disapproved, five (\$5.00) dollars.

(b) *Service.* A primary fee of twenty (\$20.00) dollars, plus for each service approved or disapproved, if rated over two hundred forty (240) volts, seventy-five (\$.75) cents for each ampere of the ampacity of such service at its connection with the electricity supply system; and for each service approved or disapproved, if rated two hundred forty (240) volts or less, twenty-five (\$.25) cents for each ampere of the ampacity of such service at its connection with the electricity supply system.

(c) In cases when work does not include the service, the fee shall be based on the rating of the panels installed, as calculated in (b) above.

(d) In cases in which only outlets, fixtures and/or receptacles are being installed or replaced, there shall be a primary fee of twenty (\$20.00) dollars plus an additional fee of one (\$1.00) dollar per each outlet, fixture, and/or receptacle replaced or installed. This fee shall not exceed the amount which would have been computed under (b) above.

(e) All fee computations shall be based on the Nominal Voltages 550, 480, 240, 208, 115, etc.

(f) When an installation involves specialized equipment and the above fees are not applicable then the fee shall be computed as outlined

in City of Boston Code, Ordinances, Chapter XVIII, subsection 18-1.2, paragraph 27 (Building and Demolition Permit). The fee of the Commissioner of Inspectional Services for receiving an application for a special annual permit to maintain electrical systems shall be three hundred (\$300.00) dollars. Holders of such a maintenance permit shall be required to maintain accurate and up-to-date logs of all work performed, which shall be available for inspection without notice by inspectors during normal business hours. The fee for giving under said Section 3L written notice of his approval or disapproval of an installation to remain in place for one hundred eighty (180) days or less, shall be, in the case of television lighting, a primary fee of twenty (\$20.00) dollars plus fifty (\$50.00) dollars for each twenty-four (24) hour period during the whole or any part of which such installation is to remain in place; and in every other case, a primary fee of twenty-five (\$25.00) dollars plus an additional fee of twenty (\$20.00) dollars for each thirty (30) day period during the whole or any part of which such installation is to remain in place. (Ord. 1976 c. 11; Ord. 1981 c. 28; Ord. 1990 c. 5, Ch. 7 § 5; Ord. 2010 c. 5)

3. *Electrologist's License.* The fee of the City Clerk for recording under Section 87hhh of Chapter 112 of the General Laws a license to practice electrolysis or for issuing thereunder a certified copy of such a license or for receiving and filing thereunder such a certified copy shall be one hundred (\$100.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1997 c. 4, Ch. 2 § 5)

4. *Reserved.*
(Ord. 1976 c. 11; Ord. 1981 c. 28; repealed by Ord. 1990 c. 5, Ch. 7 § 6)

5. *Reserved.*
(Ord. 1976 c. 11; Ord. 1981 c. 28; repealed by Ord. 1990 c. 5, Ch. 7 § 7)

6. *Entertainment License.* The fees for a seven (7) day license issued by the Licensing Board under Section 183A of Chapter 140 of the General Laws shall be as follows:

(a) The fee for a jukebox, television, radio, and music provided by electrical or mechanical means shall be one hundred twenty (\$120.00) dollars;

(b) The fee for live musical entertainment not exceeding three (3) instrumentalists shall be four hundred (\$400.00) dollars and shall include the prior category;

(c) The fee for live musical entertainment exceeding three (3) instrumentalists and/or including dancing by patrons shall be eight hundred (\$800.00) dollars in an establishment with a maximum allowable capacity of five hundred (500) persons, and one thousand two hundred (\$1,200.00) dollars in an establishment with a maximum allowable capacity of over five hundred (500) to two thousand (2,000) persons, and two thousand (\$2,000.00) dollars in an establishment, with a maximum allowable capacity of over two thousand (2,000) persons, and said fees shall include the prior categories;

(d) The fee for a floor show, including any type of live performance other than those specifically named in this subsection, shall be one thousand two hundred (\$1,200.00) dollars in an establishment with a maximum allowable capacity of five hundred (500) persons, and one thousand six hundred (\$1,600.00) dollars in an establishment with a maximum allowable capacity of over five hundred (500) to two thousand (2,000) persons, and two thousand (\$2,000.00) dollars in an establishment with a maximum allowable capacity of over two thousand (2,000) persons, and said fees shall include the prior categories;

(e) The fee for a widescreen television larger than twenty-five (25") inches on the diagonal shall be one hundred eighty (\$180.00) dollars;

(f) The fee for a cassette-operated television shall be one hundred eighty (\$180.00) dollars but shall be waived if payment is made under the prior category;

(g) The fee for an exhibition or trade show shall be two hundred fifty (\$250.00) dollars in an establishment with a maximum allowable capacity of five hundred (500) persons, and one thousand five hundred (\$1,500.00) dollars in an establishment with a maximum allowable capacity over five hundred (500) persons;

(h) The fee for a professional athletic or sporting events license shall be eight hundred (\$800.00) dollars;

(i) The fee for a non-professional athletic or sporting events license shall be two hundred (\$200.00) dollars;

(j) The fees for entertainment which is individually controlled by a patron including entertainment provided by a coin-controlled apparatus shall be as follows: where the entertainment is provided by automatic amusement devices, as defined in Section 177A of Chapter 140 of the General Laws, the fee shall be sixty (\$60.00) dollars for six (6) to twelve (12) devices, and one hundred twenty (\$120.00) dollars for thirteen (13) to twenty (20) devices, and three hundred (\$300.00) dollars for over twenty (20) devices, provided, however, that all such devices must be licensed and must pay all licensing fees pursuant to subsection 18-1.1 (23); where the entertainment is provided by means of any other type of device or apparatus, the fee shall be one hundred fifty (\$150.00) dollars per device or apparatus;

(k) The fee for a theatre offering to view motion pictures or live performances shall be no less than one hundred (\$100.00) dollars nor more than two thousand (\$2,000.00) dollars, as deemed reasonable by the licensing board, taking into account the cost of regulating the theatre and all other relevant factors.

With the approval of the issuing authority, such annual fees may be paid quarterly or semi-annually. The fees fixed by this paragraph shall be in addition to any sum payable to the State Commissioner of Public Safety.

(Ord. 1976 c. 11; Ord. 1981 c. 35)

7. *Environment Department, Certificate of Appropriateness/Design Approval and/or Exemption.* The fee for the application for a Certificate of Appropriateness/Design Approval and/or Exemption by the secretary of the Beacon Hill or Back Bay Architectural Commissions or the Boston Landmarks Commission (including any of its district commissions) or any commission established under Chapter 40C of the General Laws shall be: in the case of minor modifications to the exterior architectural features of a building and/or site, including painting, interior window signs, new window blinds/shutters, storm windows and doors, residential window grates, window and door screens, planting boxes and parterres, paving, intercom and security devices, satellite dishes and TV antennas, lanterns and lighting,

screen, benches, plaques, painting, minor roof repair (including flashing, gutters, and downspouts), minor masonry repair (including cleaning, repointing, and resurfacing of lintels and sills), annual review of outdoor cafes, and minor landscaping (including planting a limited number of trees and/or removal of noncontributing trees), twenty-five (\$25.00) dollars; in the case of design changes to the exterior architectural features of a building and/or site, including changes to or installation of doors, windows, fire balconies, exterior signs, marquees, awnings, roof decks, handrails, fences, porches, masonry garden walls/retaining walls, lowered window sills, changes to siding or roofing materials, skylights, solar panels, telecommunications equipment and large antennae, ramps and sidewalks, new chimneys and flues, residential vents, meters, mechanical/HVAC equipment, major masonry repair (including resurfacing of stoops and brownstone facades, replacement of front stoops), and major landscaping (including major planting or removal of trees, changes in landforms), fifty (\$50.00) dollars; in the case of major alterations to the exterior design or form of the buildings, including replacement masonry front steps, new roof headhouses and penthouses, new storefronts, front-yard excavations, commercial exhaust vents, new or raised dormers, new window and door openings, new terraces, new driveways and/or parking areas, and demolition, changes, or addition of floor area, one hundred (\$100.00) dollars; in the case of major construction, including any new buildings, garages, infill structures, major development projects or demolition, two hundred and fifty (\$250.00) dollars. In cases where the cost of new construction or major exterior changes exceed five hundred thousand (\$500,000.00) dollars, the fee shall be one-half (½) of one (1%) percent of the fair cost of the work, provided, however, that in no case shall the fee be more than five thousand (\$5,000.00) dollars; in special cases of demolition or removal of unsafe or unsightly architectural elements, or in cases of hardship, the commissions or their designees may waive or reduce the fee; and in cases of Certificate of Appropriateness/Design Approval for work on a designated interior space not requiring a building permit from the Inspectional Services Department, twenty-five (\$25.00) dollars, and in all other cases fifty (\$50.00) dollars.

There shall be no fee for an application for a Certificate of Exemption.

(Ord. 1985 c. 4; Ord. 1990 c. 5, Ch. 5 § 1; Ord. 2003 c. 21 § 1)

8. *Environmental Department, Order of Conditions.* The fee for an application for an order of conditions with the secretary of the Conservation Commission for the use or development of lands or waters under the control and jurisdiction of the Conservation Commission under Section 8c of Chapter 40 of the General Laws shall be in accordance with the following schedule: for projects with a fair cost of one thousand (\$1,000.00) dollars or less, twenty-five (\$25.00) dollars; and for projects with a fair cost of more than one thousand (\$1,000.00) dollars but not more than fifty thousand (\$50,000.00) dollars, fifty (\$50.00) dollars; and for projects with a fair cost of more than fifty thousand (\$50,000.00) dollars but not more than one hundred thousand (\$100,000.00) dollars, seventy-five (\$75.00) dollars; and for projects with a fair cost of more than one hundred thousand (\$100,000.00) dollars, .075% of the fair cost provided, however, that in no case shall the fee be more than one thousand five hundred (\$1,500.00) dollars.
(Ord. 1985 c. 4)

9. *Explosives.* See Flammable and/or Explosive Materials.

18-1.6 "F" Fees and Charges.

1. *Federal Tax Lien.* The fee of the City Clerk for filing under Section 39B of Chapter 255 of the General Laws a notice of a Federal Tax lien, or a certificate of the discharge of such a lien, or a certificate releasing specific property from such a lien, shall be ten (\$10.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

2. *Fee for Permit or Certificate When Work Begun Without Required Permit.* The fee of the Commissioner of Inspectional Services under any ordinance, statute, or other provision of law for a permit or certificate issued by the Department of Inspectional Services in cases in which the applicant has begun work before acquiring the necessary permit or permits, or has begun to use or occupy or change the use of occupancy of a building or structure without the required permit or certificate of inspection, or for which the fair cost of the authorized construction, reconstruction, alteration, repair or demolition has been undervalued by an amount greater than twenty-five (25%) percent as stated in the

approved permit, or has otherwise exceeded the terms of the permit, shall be double the fee which would otherwise be charged for such permit or certificate. The Commissioner of Inspectional Services shall promulgate the necessary rules and regulations for the timely and equitable enforcement of this section.
(Ord. 1981 c. 28; Ord. 1990 c. 5, Ch. 7 § 8)

3. *Feed Mill, Permit to Operate.* The fee for a permit granted by the Chief of the Fire Department under Section 6.02 of the Boston Fire Prevention Code to operate a feed mill shall be fifty (\$50.00) dollars for each calendar month in which such permit may be exercised.
(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 14; Ord 2011 c. 6)

4. *Fence Viewers, Assignment By.* The fee of the City Clerk for recording and assignment by fence viewers under Section 6 of Chapter 49 of the General Laws shall be ten (\$10.00) dollars.
(Ord. 1976 c. 11)

5. *Ferris Wheel License.* The fee for a license granted by the Mayor under Section 186 of Chapter 140 of the General Laws to establish, keep open, and maintain a ferris wheel at a carnival shall be fifteen (\$15.00) dollars for each day on which such license may be exercised. The fee for a license so granted to establish, keep open, and maintain a ferris wheel other than at a carnival shall be fifty (\$50.00) dollars for each monthly period in which such license may be exercised, except that in the case of a ferris wheel exclusively for children under thirteen (13) years of age, such fee shall be twenty-five (\$25.00) dollars for each such monthly period.
(Ord. 1976 c. 11)

6. *Fibers, Permits to Handle and Store Combustible.* The fee for an annual permit granted by the Chief of the Fire Department under Section 5.02 of the Boston Fire Prevention Code to store or handle in excess of one hundred (100) cubic feet of combustible fibers shall be a primary fee of sixty (\$60.00) dollars and an additional fee of twenty-five (\$25.00) dollars for each hundred thousand (100,000) cubic feet thereof. The fee for a permit granted as aforesaid for any period other than a year shall be, for each calendar month in which such permit may be exercised, one-twelfth (1/12) of the fee for an annual permit.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 26; Ord. 1990 c. 5, Ch. 6 § 8; Ord. 1997 c. 2 § 15; Ord. 2011 c. 6)

7. *Financing Statement and Related Documents Under Uniform Commercial Code, Certificate Of.* The fee of the City Clerk for issuing a certificate under Subsection (2) of Section 9-407 of Chapter 106 of the General Laws shall be the same as the fee charged by the Corporation Division of the Secretary of the Commonwealth, presently ten (\$10.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

8. *Financing Statement and Related Documents Under Uniform Commercial Code, Copies Of.* The fee of the City Clerk for furnishing a copy of a financing statement, an assignment or statement of assignment, a continuation statement, a statement of release, or a termination statement filed with him under Part 4 of Article 9 of Chapter 106 of the General Laws shall be a primary fee of three (\$3.00) dollars and in the case of a statement or assignment consisting of more than three (3) pages, an additional fee of one (\$1.00) dollar for the fourth and each succeeding page. (Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

8A. *Financing Statement and Related Documents Under Uniform Commercial Code, Certification Of.* The fee of the City Clerk for certifying a copy of a financing statement, an assignment or statement of assignment, a continuation statement, a statement of release, or a termination statement filed with him under Part 4 of Article 9 of Chapter 106 of the General Laws shall be five (\$6.00) dollars. (Ord. 1990 c. 10)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

9. *Financing Statement Under Uniform Commercial Code.* The fee of the City Clerk for accepting and holding pursuant to Part 4 of Article 9 of Chapter 106 of the General Laws a financing statement (including a financing statement disclosing an assignment in accordance with Subsection (1) of Section 9-405 of said Chapter 106), marking and indexing the same under Subsection (4) of Section 9-403 of said Chapter 106, and, if requested, making notations on and sending or delivering a copy thereof in accordance with Subsection (1) of Section 9-407 of said Chapter 106 shall be the same as the fee charged by the Corporation Division of the Secretary of the Commonwealth, presently ten (\$10.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

10. *Financing Statement Under Uniform Commercial Code, Amendment Of.* The fee of the City Clerk for accepting and holding pursuant to Part 4 of Article 9 of Chapter 106 of the General Laws an amendment of a financing statement or of a continuation statement, marking the same with the day and hour of the filing thereof, noting the same on the index of the financing or continuation statement which

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it amends, and, if requested, making notation on, and sending or delivering, a copy of such amendment in accordance with Subsection (1) of Section 9-407 of said Chapter 106 shall be the same as the fee charged by the Corporation Division of the Secretary of the Commonwealth, presently ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

11. Financing Statement Under Uniform Commercial Code, Assignment Of. The fee of the City Clerk for accepting and holding pursuant to Part 4 of Article 9 of Chapter 106 of the General Laws an assignment, or a statement of assignment, of a financing statement not included in, nor on the face or back of, such financing statement, marking the same with the day and hour of the filing thereof, noting the same on the index of the financing statement to which such assignment or statement thereof relates, and, if requested, making notations on, and sending or delivering, a copy of such assignment or statement thereof in accordance with Subsection (1) of Section 9-407 of said Chapter 106 shall be the same as the fee charged by the Corporation Division of the Secretary of the Commonwealth, presently ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

12. Financing Statement Under Uniform Commercial Code, Continuation Of. The fee of the City Clerk for accepting and holding pursuant to Part 4 of Article 9 of Chapter 106 of the General Laws a continuation statement, marking the same with the day and hour of the filing thereof, noting the same on the index of the financing statement which it continues, and, if requested, making notations on, and sending or delivering, a copy of such continuation statement in

accordance with Subsection (1) of Section 9-407 of said Chapter 106 shall be the same as the fee charged by the Corporation Division of the Secretary of the Commonwealth, presently ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

13. Financing Statement Under Uniform Commercial Code, Release of Collateral Under. The fee of the City Clerk for accepting and holding pursuant to Part 4 of Article 9 of Chapter 106 of the General Laws a statement of release of all or a part of collateral described in a filed financing statement, marking the same with the day and hour of the filing thereof, noting the same on the index of the financing statement to which it relates, and, if requested, making notations on, and sending or delivering, a copy of such statement of release in accordance with Subsection (1) of Section 9-407 of said Chapter 106 shall be the same as the fee charged by the Corporation Division of the Secretary of the Commonwealth, presently ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

14. Financing Statement Under Uniform Commercial Code, Termination Of. The fee of the City Clerk for accepting and holding pursuant to Part 4 of Article 9 of Chapter 106 of the General Laws a termination statement, marking it with the day and hour it is filed, noting it on the index of the financing statement to which it relates, removing from the files, marking "terminated," and sending or delivering to the secured party such financing statement and any assignment or statement of assignment or continuation statement or statement of release pertaining thereto, and, if requested, making notations on, and sending or

delivering, a copy of such termination statement in accordance with Subsection (1) of Section 9-407 of said Chapter 106 shall be the same as the fee charged by the Corporation Division of the Secretary of the Commonwealth, presently five (\$5.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

Editor's Note:

Fees and charges for financing statements filed under the Uniform Commercial Code (UCC): Effective in 2001, state law took away the requirement that lenders file with the city and town clerks. These items have not yet been repealed but remain on the books. See Chapter 26 of the Acts and Resolves of 2001, Section 6.

15. *Firearm Identification Card.* The fee for the issuance by the Police Commissioner of a Firearm Identification Card under Section 129B of Chapter 140 of the General Laws shall be fifteen (\$15.00) dollars. (Ord. 1976 c. 11; Ord. 1985 c. 4 § 29)

16. *Firearms, License to Carry or Possess.* The fee for a license to carry firearms in the Commonwealth or to possess therein a machine gun granted by the Police Commissioner under Section 131 of Chapter 140 of the General Laws shall be fifty (\$50.00) dollars, excepting Police Officers and retired Police Officers of the City of Boston who shall be exempt from the requirements of paying said fee. (Ord. 1976 c. 11, c. 17; Ord. 1979 c. 18; Ord. 1985 c. 4 § 30)

16A. *Firearms, License to Possess Assault Weapon.* The fee for a license to possess an assault weapon or weapons in the City of Boston granted by the Police Commissioner of the City of Boston, or his designee, pursuant to Section 6 of Chapter 596 of the Acts of 1989, shall be twenty-five (\$25.00) dollars. Such license shall be for five (5) years. A person having more than one (1) assault weapon shall be required to apply for only one (1) license, which license shall be applicable to all of the assault weapons which that person lists with the Police Commissioner, or his designee, at the time of application. (Ord. 1990 c. 4 § 1)

17. *Firearms, License to Sell, Rent, or Lease.* The fee for a license to sell, rent or lease firearms, rifles, shotguns, or machine guns granted by the Police Commissioner under Section 122 of Chapter 140 of the General Laws shall be three hundred (\$300.00) dollars. (Ord. 1976 c. 11; Ord. 1985 c. 4 § 31)

18. *Firearms, Permit to Purchase, Rent or Lease.* The fee for a permit to purchase, rent, or lease a firearm granted by the Police Commissioner under Section 131A of Chapter 140 of the General Laws shall be fifty (\$50.00) dollars.

(Ord. 1976 c. 11)

18A. *Fire Escape Certification Charge.* All exterior bridges, steel or wooden stairways, fire escapes and egress balconies shall be examined and/or tested, and certified for structural adequacy and safety every five (5) years, by a Massachusetts registered professional engineer, or others qualified and acceptable to the building official; said engineer or others shall then submit an affidavit to the building official together with a fee in the amount of fifty (\$50.00) dollars within thirty (30) days of the inspection.

(Ord. 1990 c. 5, Ch. 7 § 9; Ord. 2007 c. 1)

19. *Fire Extinguisher Servicer's Certificate of Competency.* The fee of the Assistant Chief in charge of the Fire Prevention Division of the Fire Department for issuing under Article 8 of the Boston Fire Prevention Code a certificate of competency as a fire extinguisher servicers whether original or renewal, shall be fifty (\$50.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 16; Ord. 2011 c. 6)

20. *Fire, Extinguishing System, Permit to Install or Alter.* The fee for a permit granted by the Chief of the Fire Department under Section 14.02 of the Boston Fire Prevention Code to install or alter any part of any fire extinguishing system shall be ninety (\$90.00) dollars.

(Ord. 1985 c. 4 § 27; Ord. 1997 c. 2 § 17; Ord. 2011 c. 6)

21. *Fire Fighting Exhibition License.* The fee for a license granted by the Mayor under Section 186 of Chapter 140 of the General Laws to establish, keep open, and maintain an outdoor exhibition of fire fighting for the amusement of the public shall be twenty-five (\$25.00) dollars for each day on which such license may be exercised.

(Ord. 1976 c. 11)

22. *Fire in Open Air for Burning Leaves, Etc., Permit For.* There shall be no fee for a permit granted by the Fire Commissioner under Chapter 355 of the

Acts of 1943 to set, maintain, or increase a fire or fires in the open air if such permit limits all fires thereunder to a single estate and to the burning of leaves, grass, and brush from such estate and restricts each fire thereunder to four (4) square feet in area. (Ord. 1976 c. 11)

23. *Fire (Large) in Open Air, Permit For.* The fee for a permit by the Fire Commissioner under Chapter 355 of the Acts of 1943 to set, maintain, or increase a fire or fires in the open air other than in an incinerator shall, except in the case of a permit coming within paragraph (22) or (25) of this subsection, be sixty (\$60.00) dollars for the first monthly period and ten (\$10.00) dollars for each additional monthly period in which it may be exercised; provided, that there shall be no fee for a permit granted as aforesaid to set, maintain, or increase a fire or fires in connection with a patriotic or public celebration. (Ord. 1976 c. 11; Ord. 1997 c. 2 § 18)

24. *Fire Report.* The fee for a copy of a fire report issued by the Chief of the Boston Fire Department shall be ten (\$10.00) dollars per page. (Ord. 1985 c. 4 § 28; Ord. 1997 c. 2 § 19; Ord. 2011 c. 6)

25. *Fire (Small or Torch) in Open Air, Permit For.* The fee for a permit granted by a Fire Commissioner under Chapter 355 of the Acts of 1943 to set, maintain or increase in the open air a flame or flames in connection with one or more appliances or devices using or producing flame or a fire or fires not exceeding four (4) square feet in area shall be thirty-eight (\$38.00) dollars for each monthly period in which such permit may be exercised; provided, that if such permit limits such flame or flames or such fire or fires to a single estate, the fee for such permit shall be ten (\$10.00) dollars for each said period. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 20; Ord. 2011 c. 6)

26. *Fire Suppression System, Permit for Installation, Alteration, or Repair Of.* The fee of the Commissioner of Inspectional Services for receiving an application for a permit under s. 113 of the Commonwealth of Massachusetts State Building Code to install, alter, or repair a sprinkler system or other fire extinguishing apparatus shall be a primary fee of twenty (\$20.00) dollars, and an additional fee of

one (\$1.00) dollar for each sprinkler head, hose, or chemical extinguishing outlet. (New; Ord. 1981 c. 28; Ord. 2010 c. 5)

27. *Fire Suppression System, Testing and Inspection Of.* The fees of the Inspectional Services Department for the annual testing and inspection of automatic sprinkler systems or other fire extinguishing apparatus under Section 1204.5 of Article 12 of Chapter 11 of the Ordinances of 1969 (Boston Building Code), as amended, shall be a primary fee of twenty-five (\$25.00) dollars and an additional fee of one (\$1.00) dollar for each sprinkler head, hose, or chemical extinguishing outlet. (New; Ord. 1981 c. 30)

28. *Fireworks Bond.* The fee of the City Clerk for receiving and filing a bond given under Section 40 of Chapter 148 of the General Laws and conditioned upon the payment of any judgment for loss, damage, or injury resulting from the storage or manufacture of fireworks shall be five (\$5.00) dollars. (Ord. 1976 c. 11)

29. *Fireworks Display Permit.* The fee for a permit granted by the head of the Fire Department under Section 10A of Chapter 148 of the General Laws for a supervised display of fireworks shall be eighty-five (\$85.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 21; Ord. 2011 c. 6)

30. *Fishing License.* The fee for a fishing license issued by the City Clerk under Chapter 131 of the General Laws shall be as prescribed by Section 8 and 8A of said Chapter 131. (Ord. 1976 c. 11)

31. *Flammable and/or Explosive Materials, Annual Registration of License For.* The fee of the Fire Commissioner for receiving under Section 13 of Chapter 148 of the General Laws a certificate of registration setting forth the name and address of the holder of a license granted under said Section 13 or corresponding provisions of earlier law shall be seventy-five (\$75.00) dollars. (Ord. 1976 c. 11; Ord. 2011 c. 6)

32. *Flammable and/or Explosive Materials, Annual Registration of, Unlicensed but Lawful Use of Land For.* The fee of the Fire Commissioner for receiving pursuant to Section 2 of Chapter 394 of the Acts of 1936 from the owner or occupant of a building or other structure lawfully used for any of the purposes specified in Section 13 of Chapter 148 of the General Laws without a license a certificate reciting such use shall be one-half ($\frac{1}{2}$) of the fee which would be payable under paragraph 33 of this subsection for a license granted under said Section 13 for such use. (Ord. 1976 c. 11)

33. *Flammable and/or Explosive Materials, License For.* The fee for a license granted under Section 13 of Chapter 148 of the General Laws by the Committee on Licenses in the Public Safety Commission to use land for the keeping, storage, manufacture, or sale of one or more of the articles named in Section 9 of said Chapter 148 shall be a primary fee of one hundred fifty (\$150.00) dollars and an additional fee equal, in the case of fluids, to forty-five (\$45.00) dollars for each one thousand (1,000) of the first ten thousand (10,000) gallons thereof, fifteen (\$15.00) dollars for each one thousand (1,000) of the next ninety thousand (90,000) gallons thereof, fifteen (\$15.00) dollars for each ten thousand (10,000) of the next four million nine hundred thousand (4,900,000) gallons thereof; and fifteen (\$15.00) dollars for each one hundred thousand (100,000) gallons thereof in excess of five million (5,000,000) gallons; and equal, in the case of solids and gases, to twenty-three (\$23.00) dollars for each hundred (100) of the first one thousand (1,000) cubic feet thereof; thirteen (\$13.00) dollars for each one thousand (1,000) of the next four hundred ninety nine thousand (499,000) cubic feet thereof; and nine (\$9.00) dollars for each ten thousand (10,000) cubic feet thereof in excess of five hundred thousand (500,000) cubic feet; provided, that the fee for a license granted as aforesaid which relates exclusively to all or part of an estate owned or occupied by the same person or persons for the whole or part or parts of which a license or licenses held by such person or persons are in force under said Section 13 shall be a primary fee of one hundred fifty

(\$150.00) dollars and an additional fee equal to the amount by which the additional fee which would be payable under this paragraph for a license granted under said Section 13 to use such estate for the aggregate authorized by such license would be increased by the inclusion of a new license.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 40; Ord. 1990 c. 5, Ch. 6 § 9; Ord. 1997 c. 2 § 22; Ord. 2011 c. 6)

34. *Flammable and/or Explosive Materials, Recording of License For.* The fee of the City Clerk for recording a license granted under Section 13 of Chapter 148 of the General Laws by the Committee on Licenses in the Public Safety Commission shall be two dollars and fifty (\$2.50) cents for each page or part thereof.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

35. *Flammable Materials, Permit For.* The fee for a permit granted by the head of the Fire Department under Section 10A or Section 23 of Chapter 148 of the General Laws solely for the keeping, storage and use of not exceeding two thousand (2,000) gallons of liquefied petroleum gas shall be twelve (\$12.00) dollars per year, and said fee shall be payable by the assessed owner of the property upon which such material is stored provided, however, that in the case of an assessed owner sixty-five (65) years or older, low/moderate income, or handicapped, as those terms are defined in Chapter 34 of the Ordinances of 1984, such fee shall be six (\$6.00) dollars per year and further, provided, that in the case of a tenant sixty-five (65) years or older, low/moderate income, or handicapped, as those terms are defined in Chapter 34 of the Ordinances of 1984, the assessed owner may transfer not greater than fifty (50%) percent of the fee to the tenant.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 32; Ord. 1987 c. 10 § 1 [126]; Ord. 1990 c. 5, Ch. 6 § 10; Ord. 1997 c. 2 § 23; Ord. 2011 c. 6)

36. *Flammable Materials, Permit to Spray or Dip Utilizing.* The fee for a permit granted by the Chief of the Fire Department under Section 17.02 of the Boston Fire Prevention Code to spray or dip

utilizing flammable or combustible liquids shall be five hundred seventy-five (\$575.00) dollars annually. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 33; Ord. 1990 c. 5, Ch. 6 § 11; Ord. 1997 c. 2 § 24; Ord. 2011 c. 6)

37. *Flashpoint Determination.* The charge to be paid for a determination by the testing laboratory in the Fire Department of the flashpoint of any flammable fluid or solid shall be twenty (\$20.00) dollars.

(Ord. 1976 c. 11; Ord. 1997 c. 2 § 25; Ord. 2011 c. 6)

38. *Flour Mill, Permit to Operate.* The fee for a permit granted by the Chief of the Fire Department under Section 10.03 of the Boston Fire Prevention Code to operate a flour mill shall be five hundred twenty-five (\$525.00) dollars annually.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 35; Ord. 1997 c. 2 § 26; Ord. 2011 c. 6)

39. *Food Service Establishment, Permit For.* The fee for a permit granted by the Boston Public Health Commission for the operation of a food service establishment under the State Sanitary Code shall be:

(a) For any establishment serving only beverages and in the case of an establishment serving both food and beverages, other than those defined in (b) through (e) below, one (\$1.00) dollar per annum, per seat or place for the accommodation of patrons, provided, however, that no establishment shall pay a fee of less than two hundred (\$200.00) dollars nor more than one thousand (\$1,000.00) dollars;

(b) In the case of an establishment which prepares on premises food or beverage for off premises consumption or for consumption on premises, if, as sold, such food or drink is ready for off premises consumption, two hundred (\$200.00) dollars if the gross annual sales volume in the previous calendar year was less than two hundred thousand (\$200,000.00) dollars; three hundred (\$300.00) dollars if the gross annual sales volume was two hundred thousand (\$200,000.00) dollars or more but less than four hundred thousand (\$400,000.00) dollars; four hundred (\$400.00) dollars if the gross annual sales volume was four hundred thousand (\$400,000.00) dollars or more but less than six hundred thousand (\$600,000.00) dollars; five hundred (\$500.00) dollars if the gross annual sales volume was six hundred thousand (\$600,000.00) dollars or more

but less than eight hundred thousand (\$800,000.00) dollars; six hundred (\$600.00) dollars if the gross annual sales volume was eight hundred thousand (\$800,000.00) dollars or more but less than one million (\$1,000,000.00) dollars; seven hundred (\$700.00) dollars if the gross annual sales volume was one million (\$1,000,000.00) dollars or more but less than two million (\$2,000,000.00) dollars; nine hundred (\$900.00) dollars if the gross annual sales volume was two million (\$2,000,000.00) dollars or more but less than three million (\$3,000,000.00) dollars; and one thousand two hundred (\$1,200.00) dollars if the gross annual sales volume was three million (\$3,000,000.00) dollars or more;

(c) In the case of an establishment operated by or within a hospital, nursing home, rest home, rehabilitation center, halfway house, or other facility providing mental or physical health care on an overnight basis, whether such establishment is operated directly by the facility or by contract or concession, the amount as set forth above for sales to employees, families or patients or clients, or the public, and, in addition, for services to patients or clients, fifty (\$50.00) dollars for the first ten (10) beds or accommodations for patients or clients plus an additional twenty (\$20.00) dollars for every additional fifty (50) beds or accommodations for patients or clients, provided however, that no such establishment shall pay a fee in excess of two hundred (\$200.00) dollars for such services to patients and clients;

(d) In the case of an establishment operated by or within a day care agency or by or within a clinic providing mental and physical health services on an outpatient basis only, one hundred (\$100.00) dollars.

(e) Not including any other permits and/or fees as required by law, in the case of an establishment operated by a religious or charitable organization providing food service programs and/or accommodations exclusively for homeless, destitute, aged persons, and/or minors, ten (\$10.00) dollars. However, no fee shall be imposed on any establishment covered by M.G.L. chapter 94, section 328.

The fee for a food service permit under the methods described by (a) or (b) shall only be determined by one of the said methods.

(Ord. 1976 c. 11; Ord. 1977 c. 1, c. 9, c. 15; Ord. 1981 c. 34; Ord. 1990 c. 5, Ch. 7 § 10; Ord. 2007 c. 9; Ord. 2008 c.12)

40. *Fortune Teller's License.* The fee for a fortune teller's license granted by the Licensing Board under Section 185I of Chapter 140 of the General Laws shall be two hundred (\$200.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 35)

41. *Frozen Desserts, License to Manufacture for Sale at Retail.* The fee for a license granted by the Board of Health and Hospitals under Section 65(I) of Chapter 94 of the General Laws to manufacture frozen desserts and frozen dessert mix, or either, for sale at retail shall be one hundred (\$100.00) dollars for each premises specified in the license. (Ord. 1976 c. 11; Ord. 1981 c. 34; Ord. 2007 c. 9)

42. *Frozen Desserts, License to Manufacture for Sale at Wholesale.* The fee for a license granted by the Board of Health and Hospitals under Section 65(I) of Chapter 94 of the General Laws to manufacture frozen desserts and frozen dessert mix, or either, for sale at wholesale shall be, for the manufacture of not more than twenty-five thousand (25,000) gallons, two hundred twenty-five (\$225.00) dollars; for the manufacture of more than twenty-five thousand (25,000) gallons, but not more than one hundred thousand (100,000) gallons, three hundred (\$300.00) dollars; for the manufacture of more than one hundred thousand (100,000) gallons but not more than two hundred fifty thousand (250,000) gallons, four hundred (\$400.00) dollars; for the manufacture of more than two hundred fifty thousand (250,000) gallons, but not more than five hundred thousand (500,000) gallons, five hundred (\$500.00) dollars; and for the manufacture of more than five hundred thousand (500,000) gallons, six hundred (\$600.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 34)

43. *Frozen Desserts, Permit to Have for Sale.* The fee for a permit to have frozen desserts and frozen dessert mix, or either, in custody or possession with intent to sell or to expose for sale or to deliver in the City granted by the Board of Health and Hospitals under regulation made by such Board under Section 65(Q) of Chapter 94 of the General Laws shall be thirty (\$30.00) dollars. (Ord. 1976 c. 11, c. 12; Ord. 1977 c. 9; Ord. 1981 c. 34; Ord. 1990 c. 5, Ch. 7 § 11; Ord. 2007 c.9)

44. *Fuel Oil Burner, Permit to Install or Alter.* The fee for a permit granted by the head of the Fire Department under Section 10A of Chapter 148 of the

General Laws for the installation or alteration of a fuel oil burner shall be seventy-five (\$75.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 36; Ord. 1990 c. 5, Ch. 6 § 12; Ord. 1997 c. 2 § 27; Ord. 2011 c. 6)

45. *Fumigation of Certain Buildings, Permit For.* The fee for a permit granted by the head of the Fire Department under Section 10A of Chapter 148 of the General Laws to fumigate a warehouse, factory or commercial building by the use of volatile inflammable liquid or a material requiring flame shall be sixty-five (\$65.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 38; Ord. 1990 c. 5, Ch. 6 § 13; Ord. 1997 c. 2 § 28; Ord. 2011 c. 6)

46. *Fumigation, Permit to Engage in Business Of.* The fee for a permit granted by the Chief of the Fire Department under Section 18.03 of the Boston Fire Prevention Code to engage in the business of fumigation and/or thermal insecticidal fogging shall be five hundred seventy-five (\$575.00) dollars annually. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 37; Ord. 1990 c. 5, Ch. 6 § 14; Ord. 1997 c. 2 § 29; Ord. 2011 c. 6)

47. *Fumigation Room, Permit For.* The fee for a permit granted by the Chief of the Fire Department under Section 18.03 of the Boston Fire Prevention Code to maintain a fumigation room, vault or chamber shall be fifty-seven (\$57.00) dollars for each calendar month in which such permit may be exercised. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 39; Ord. 1990 c. 5, Ch. 6 § 15; Ord. 1997 c. 2 § 30; Ord. 2011 c. 6)

48. *Funeral Director's License.* The fee for a license to act as a funeral director in Boston granted by the Board of Health and Hospitals under Section 49 of Chapter 114 of the General Laws shall be two hundred (\$200.00) dollars. (Ord. 1976 c. 11; Ord. 1990 c. 5, Ch. 5 § 12)

18-1.7 "G" Fees and Charges.

A. *Garage Inspections.* The charge to be paid for each inspection by the Boston Fire Department of a self-service type service station pursuant to 527 CMR 5.05 shall be one hundred fifty (\$150.00)

dollars for the initial inspection and seventy-five (\$75.00) dollars for each annual inspection thereafter. (Ord. 1990 c. 5, Ch. 6 § 16; Ord. 1997 c. 2 § 31; Ord. 2011 c. 6)

1. *Garage Permits.* The fees for a permit granted by a Committee on Licenses in the Public Safety Commission under Chapter 577 of the Acts of 1913, as amended, to erect or maintain a garage for the storage, keeping, or care of motor vehicles (including a lubritorium or repair shop) shall be a primary fee of seventy-five (\$75.00) dollars and an additional fee equal to six (\$6.00) dollars for each inspection, repair, lubricating, or washstand bay thereof, and an additional fee for each calendar month in which such permit may be exercised of fifty (\$.50) cents for each parking space therein; provided that the fees for a permit so granted to erect or maintain a private garage for the storage or keeping of automobiles only shall be a primary fee of twenty-five (\$25.00) dollars, and an additional fee for each calendar month in which such permit may be exercised of fifty (\$.50) cents for each parking space therein, except that the total fee for a permit so granted to erect or maintain as an appurtenance to a dwelling a garage for the storage or keeping of not more than two (2) automobiles shall be five (\$5.00) dollars. (Ord. 1976 c. 11)

2. *Garbage, Etc., Permit to Transport.* The fee for a permit to remove or transport garbage, offal, or other offensive substances through the streets of the City granted by the Board of Health and Hospitals under Section 31A of Chapter 111 of the General Laws shall be two hundred (\$200.00) dollars, for each vehicle used in such removal and transportation; provided, however, that for a vehicle which is under contract with the City of Boston, no fee shall be charged. (Ord. 1976 c. 11; Ord. 1981 c. 34)

3. *Gases.* See "Flammable Materials," also "Liquefied Petroleum Gas Equipment."

4. *Gasfitting Installation, Alteration or Repair Permit.* The fees for receiving an application for a permit under Section 113 of the Commonwealth of Massachusetts State Building Code to install, alter, or repair permanent gasfitting in new construction shall be a primary fee of twenty (\$20.00) dollars plus an additional fee of five (\$5.00) dollars for each appliance or meter installed, altered, or substantially

repaired. The fee for receiving an application under Section 113 of the State Building Code to install a liquefied petroleum gas supply shall be a primary fee of twenty (\$20.00) dollars and an additional fee of five (\$5.00) dollars for each one hundred (100) pounds of gas or fraction thereof to be stored. (Ord. 1976 c. 11; Ord. 1997 c. 17; Ord. 1981 c. 28; Ord. 1990 c. 5, Ch. 7 § 13; Ord. 2010 c. 5)

5. *Gas, Propane, Storage of in Buildings Under Construction or Renovation.* The fee of the Building Commissioner for receiving an application for a permit to store propane gas for use in buildings under construction or renovation shall be five (\$5.00) dollars, and an additional two dollars and fifty (\$2.50) cents for each heating apparatus or appliance. (Ord. 1997 c. 17)

6. *Gasoline Tank, Permit to Remove or Relocate.* The fee for a permit granted by the Chief of the Fire Department under Section 38A of Chapter 148 of the General Laws to remove or relocate an underground tank which has been used for the keeping or storage of gasoline shall be eighty-five (\$85.00) dollars for each tank. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 40; Ord. 1997 c. 2 § 32; Ord. 2011 c. 6)

7. *Goats, Permit to Keep.* The fee for an annual permit to keep goats granted by the Board of Health and Hospitals under Subsection 16-1.8 of these ordinances shall be five (\$5.00) dollars for each goat. (Ord. 1976 c. 11)

8. *Golf Course, William J. Devine (Franklin Park).*

(a) The fee for a license from the Parks and Recreation Commission permitting the licensee to use throughout the year for which it is given the William J. Devine golf course for the playing of golf shall be, in the case of a permit who is a resident in the City, one hundred fifty (\$150.00) dollars for a seven (7) day license and one hundred twenty-five (\$125.00) dollars for a five (5) day, Monday through Friday license and in the case of any other person, two hundred seventy-five (\$275.00) dollars for a seven-day license and two hundred fifty (\$250.00) dollars for a five day, Monday through Friday license, provided, however, that in the case of a resident of the City sixty-five (65) years of age or older, the fee for a seven (7) day license shall be seventy-five (\$75.00) dollars.

(b) The fee for the use of such golf course for the playing of golf by a person without such a license shall be, on a Saturday, Sunday, or legal holiday, five (\$5.00) dollars in the case of a person resident of the City and eight (\$8.00) dollars in the case of any other person and, on any other day than Saturday, Sunday, or legal holiday, three dollars and fifty (\$3.50) cents in the case of a person resident in the City and five (\$5.00) dollars in the case of any other person; provided that the fee for the use of such golf course by any person commencing to play after 5:00 p.m. on any day other than a Saturday, Sunday, or legal holiday shall be two dollars and fifty (\$2.50) cents.

(c) The fee to be charged by the Parks and Recreation Commission for the exclusive use of a locker at the golf course throughout the year for which it is given, shall be, in the case of a person resident in the City, twenty-five (\$25.00) dollars and in the case of any other person, thirty (\$30.00) dollars.

9. *Golf Course, George Wright.*

(a) The fee for a license from the Parks and Recreation Commission permitting the licensee to use throughout the year for which it is given the George Wright golf course for the playing of golf shall be, in the case of a person who is a resident of the City, three hundred (\$300.00) dollars for a seven (7) day license and two hundred fifty (\$250.00) dollars for a five (5) day, Monday through Friday license and, in the case of any other person, four hundred (\$400.00) dollars for a seven (7) day license and three hundred seventy-five (\$375.00) dollars for a five (5) day, Monday through Friday license, provided, however, that in the case of a resident in the City sixty-five (65) years of age or older, the fee for a seven (7) day license shall be one hundred fifty (\$150.00) dollars and the fee for a five (5) day, Monday through Friday license shall be one hundred twenty-five (\$125.00) dollars. In the case of any member who is continuing a membership in good standing from 1980 to 1981, the cost of any daily fee charges paid prior to implementation of this ordinance may be applied to the cost of the 1981 membership fee.

(b) The fee for the use of such golf course for the playing of golf by a person without such a license shall be on a Saturday, Sunday, or legal holiday, eight (\$8.00) dollars in the case of a resident of the City and twelve (\$12.00) dollars in the case of any other person and, on any day other than a

Saturday, Sunday, or legal holiday, five (\$5.00) dollars in the case of a resident of the City and nine (\$9.00) dollars in the case of any other person; provided that the fee for the use of such golf course by any person commencing to play after 5:00 p.m. on any day other than a Saturday, Sunday, or legal holiday shall be three dollars and fifty (\$3.50) cents.

(c) The fee to be charged by the Parks and Recreation Commission for the exclusive use of a locker at a golf course throughout the year for which it is given shall be, in the case of a resident of the City thirty (\$30.00) dollars and in the case of any other person fifty (\$50.00) dollars.
(Ord. 1976 c. 5, c. 8; Ord. 1981 c. 9)

10. *Use of George Wright Golf Course Clubhouse.* The charge to be paid for the use of the clubhouse at George Wright golf course for a social, civic or similar event shall be two hundred fifty (\$250.00) dollars.
(New; Ord. 1981 c. 9, s 2)

11. *Grain Elevator Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 6.02 of the Boston Fire Prevention Code to operate a grain elevator shall be five hundred twenty-five (\$525.00) dollars annually.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 41; Ord. 1997 c. 2 § 33; Ord. 2011 c. 6)

12. *Gravel Removal Permit.* The fee for a permit operated by the Building Commissioner under Chapter 204 of the Acts of 1945 to excavate land to a depth of more than five (5') feet for the purposes of obtaining and removing sand, gravel, or loam shall be ten (\$10.00) dollars.
(Ord. 1976 c. 11)

13. *Gunsmith's License.* The fee for a license to be in business as a gunsmith granted by the Police Commissioner under Section 122 of Chapter 140 of the General Laws shall be, in the case of a person licensed to sell, rent, or lease firearms, rifles, shotguns, or machine guns, fifty (\$50.00) dollars and in the case of any other persons one hundred (\$100.00) dollars.
(Ord. 1976 c. 11)

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

18-1.8 "H" Fees and Charges.

1. *Habitation, Permit for Hazardous Operation or Storage in or Near Place Of.* The fee for a permit granted by the Chief of the Fire Department under Section 21.01 of the Boston Fire Prevention Code for a hazardous operation or storage in or near a building used for habitation shall be fifty-seven (\$57.00) dollars for each calendar month in which such permit may be exercised.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 42; Ord. 1990 c. 5, Ch. 6 §§ 17, 18; Ord. 1997 c. 2 § 34; Ord. 2011 c. 6)

2. *Hackney Carriage License.* The fee for a license granted by the Police Commissioner under Chapter 392 of the Acts of 1930 to set up and use a vehicle as a hackney carriage shall be one hundred (\$100.00) dollars for each vehicle. The fee for every amendment of any such license shall likewise be twenty (\$20.00) dollars for each vehicle, except that, in cases where the amendment results solely from the substitution of one vehicle for another, the fee therefor shall be ten (\$10.00) dollars for each vehicle.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 43)

3. *Hackney Carriage Driver's License.* The fee for a license granted by the Police Commissioner under Chapter 392 of the Acts of 1930 to drive or have charge of a hackney carriage shall be thirty (\$30.00) dollars.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 44)

4. *Halls, Etc., in Municipally Owned Buildings; Use Of.* The charge to be paid to the exclusive use on a weekday of a hall with a seating capacity of less than five hundred (500), in a municipally owned building, other than a library or school or Faneuil Hall, shall be sixty (\$60.00) dollars, except that the charge for such a use ceasing before 6:00 p.m. shall be thirty (\$30.00) dollars, and the charge for such a use commencing after 5:00 p.m. shall be fifty (\$50.00) dollars; and the charge to be paid for the exclusive use of such a hall on a Sunday or legal holiday shall be eighty (\$80.00) dollars, except that the charge for such a use ceasing before 6:00 p.m. shall be fifty (\$50.00) dollars, and the charge for such a use commencing after 5:00 p.m. shall likewise be fifty (\$50.00) dollars. The charge to be paid for the exclusive use on a weekday of a hall with a seating capacity of five hundred (500) or more but less than one thousand (1,000) in a municipally

owned building other than a library or school or Faneuil Hall shall be one hundred (\$100.00) dollars, except that the charge for such a use ceasing before 6:00 p.m. shall be (\$50.00) dollars, and the charge for such a use commencing after 5:00 p.m. shall be seventy (\$70.00) dollars; and the charge to be paid for the exclusive use of such a hall on a Sunday or legal holiday shall be one hundred twenty (\$120.00) dollars, except that the charge for such a use ceasing before 6:00 p.m. shall be seventy (\$70.00) dollars, and the charge for such a use commencing after 5:00 p.m. shall likewise be seventy (\$70.00) dollars. The charge to be paid for the exclusive use on a weekday of a hall with a seating capacity of one thousand (1,000) or more in a municipally owned building other than a library or school or Faneuil Hall shall be one hundred forty (\$140.00) dollars, except that the charge for such a use ceasing before 6:00 p.m. shall be seventy (\$70.00) dollars, and the charge for such a use commencing after 5:00 p.m. shall be ninety-five (\$95.00) dollars, and the charge to be paid for the exclusive use of such a hall on a Sunday or legal holiday shall be one hundred sixty (\$160.00) dollars, except that the charge for such a use ceasing before 5:00 p.m. shall be ninety (\$90.00) dollars, and the charge for such a use commencing after 5:00 p.m. shall likewise be ninety (\$90.00) dollars. The charge to be paid for the exclusive use on a weekday of Faneuil Hall shall be five hundred (\$500.00) dollars, except that the charge for such a use ceasing before 5:00 p.m. shall be two hundred and fifty (\$250.00) dollars, and the charge for such a use commencing after 5:00 p.m. shall be three hundred and fifty (\$350.00) dollars; and the charge to be paid for the exclusive use of Faneuil Hall on a Saturday or Sunday or legal holiday shall be five hundred (\$500.00) dollars, except that the charge for such use ceasing before 5:00 p.m. shall be three hundred and fifty (\$350.00) dollars. The Commissioner of Property Management or his or her designee shall have the authority to assess supplementary fees to cover any additional costs incurred for additional security, planning and/or maintenance staff. The Commissioner of Property Management or his or her designee shall have the authority to waive or reduce any of the fees imposed relative to the use of Faneuil Hall due to economic hardship upon the applicant's written declaration of such hardship. All City of Boston sponsored uses of Faneuil Hall shall be exempt from all fees. The word "hall" as used in this paragraph, shall not be construed to include the municipal

auditorium or any part thereof, but shall be construed to included a gymnasium with seating accommodations.

(Ord. 1976 c. 11; Ord. 1982 c. 19; Ord. 2008 c. 16)

5. *Halls, Large, Presenting Rock Concerts, License For.* The fee for a license granted by the Mayor under Section 181 of Chapter 140 of the General Laws for large hall in which may from time to time be presented rock concerts, so called, shall be five hundred (\$500.00) dollars for each calendar year or part thereof in which such license is to be exercised.

(Ord. 1976 c. 11)

6. *Hamburg.* See "Sausages and Chopped Meat."

7. *Handcart Licenses.* See "Wagon and Handcart Licenses."

8. *Hawker's or Peddler's License.* The fee for an annual hawker's or peddler's license granted by the Board of Health and Hospitals under Section 16-2.1 shall be, if sales within the market limits as prescribed in Subsection 17-3.1 are authorized, one hundred fifty (\$150.00) dollars, otherwise, twenty-five (\$25.00) dollars.

(Ord. 1976 c. 3; Ord. 1981 c. 11, c. 34; Ord. 1985 c. 4 § 76)

9. *Hawker's or Peddlers Number Plates.* The fee of the Board of Health and Hospitals for assigning under Subsection 16-2.1 a number to a person hawking or peddling any of the articles enumerated in Section 17 of Chapter 101 of the General Laws shall be five (\$5.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 34)

10. *Hazardous Operation or Storage, Permit For.* The fee for a permit granted by the Chief of the Fire Department under Section 1.05(b) or 21.01 of the Boston Fire Prevention Code for a hazardous operation or storage shall be fifty-two (\$52.00) dollars for each calendar month or fraction thereof in which such permit may be exercised, or six hundred seventy-five (\$675.00) dollars annually.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 45; Ord. 1990 c. 5, Ch. 6 § 19; Ord. 1997 c. 2 § 35; Ord. 2011 c. 6)

10A. *Health Inspection - Compliance Fee.* The fee for the ISD re-inspection required after an establishment has received violations for critical risk factors, shall be one hundred (\$100.00) dollars.

(Ord. 2007 c. 9)

10B. *Health Inspection - Permit Replacement Fee.* The fee for a duplicate copy of any ISD issued permit shall be ten (\$10.00) dollars.

(Ord. 2007 c. 9)

10C. *Health Inspection - Renovation Fee.* Any existing establishment undergoing renovations, which require a plan review and additional ISD inspection, shall be charged an inspection fee of seventy-five (\$75.00) dollars.

(Ord. 2007 c. 9)

10D. *Health Inspection - Variance Fee.* The fee for ISD inspection of a special food product preparation process or a physical facility requirement that require a variance from the sanitary code, as defined by the Federal Food Code and codified as 105 CMR 590, shall be seventy-five (\$75.00) dollars.

(Ord. 2007 c.9)

11. *Heating Installation Permit.* The fee of the Commissioner of Inspectional Services for receiving an application for a permit under Section 113 of the Commonwealth of Massachusetts State Building Code to install a steam boiler, furnace, heater, or other heat-producing apparatus, the installation of which is regulated by the State Building Code shall be a primary fee of ten (\$10.00) dollars plus an additional fee of nine (\$0.09) cents per each one thousand (1,000) BTU/Hour or fraction thereof of capacity of the system. The fee of said Commissioner for receiving an application to install, alter, or repair any oven or furnace used for industrial purposes shall be fifty (\$50.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 28)

12. *Hens.* See "Poultry."

13. *Hotels, Hospitals, Dispensaries, Day Care Agencies, Etc., Inspection Of.* The fee to be paid to the Chief of the Fire Department for inspecting, pursuant to Section 1.24(b) of the Boston Fire Prevention Code, City of Boston Code, Ordinances, Chapter XI, Section 11-5 or for inspecting, pursuant

to any requirement of statute, any hotel, hospital, dispensary, clinic, institution for unwed mothers, agency giving day care to children, nursing home, infirmary, rest home, halfway house, or other group residence, or any similar facility, and for issuing a report or certificate of said inspection, shall be one hundred ten (\$110.00) dollars for each inspection per building whether made annually, semiannually, quarterly, or at other intervals.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 46; Ord. 1990 c. 5, Ch. 6 §§ 20, 21; Ord. 1997 c. 2 § 36; Ord. 2011 c. 6)

14. *Hunting License.* The fee for a hunting license issued by the City Clerk under Chapter 131 of the General Laws shall be as prescribed in Section 11 of said Chapter 131.

(Ord. 1976 c. 11)

15. *Hydrant Disconnection.* See "Sprinkler System Disconnection."

CITY OF BOSTON CODE - ORDINANCES

18-1.9 "I" Fees and Charges.

1. *Ice Cream.* See "Frozen Desserts."

2. *Incinerator, Assignment of Place for Refuse Disposal.* The fee for the assignment by the Board of Health and Hospitals under Section 150A of Chapter 111 of the General Laws as a site for a refuse disposal incinerator or refuse transfer station shall be five hundred (\$500.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 34)

3. *Incinerator Permit.* The fee for a permit granted by the Fire Commissioner under Chapter 355 of the Acts of 1943 to set, maintain, or increase fires in an incinerator in the open shall be fifteen (\$15.00) dollars for each calendar month in which such permit may be exercised; and the fee for a permit granted by the Chief of the Fire Department under Section 17.04 of the Boston Fire Prevention Code to fire an incinerator not in the open shall likewise be fifteen (\$15.00) dollars for each calendar month in which such permit may be exercised; provided, that when either such permit is granted solely for an incinerator for the purpose of burning rubbish from households on the estate on which it is located, the fee therefor shall be: if granted for a period of twenty-four (24) months, fifteen (\$15.00) dollars; if granted for a period of less than twenty-four (24), but more than eighteen (18) months, eleven (\$11.00) dollars; if granted for a period of eighteen (18) months, ten (\$10.00) dollars; if granted for a period of less than eighteen (18), but more than twelve (12) months, eight (\$8.00) dollars; if granted for a period of twelve (12) months, six (\$6.00) dollars; if granted for a period of less than twelve (12), but more than six (6) months, five (\$5.00) dollars; if granted for a period of six (6) months, three (\$3.00) dollars; and if granted for a period of less than six (6) months, two (\$2.00) dollars.

(Ord. 1976 c. 11; Ord. 1997 c. 2 § 37; Ord. 2011 c. 6)

4. *Inflammables.* See "Flammable and/or Explosive Materials."

5. *Innholder's License.* The fee for an innholder's license granted by the Licensing Board under Section 2 of Chapter 140 of the General Laws shall be eight hundred (\$800.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 35)

18-1.10 "J" Fees and Charges.

1. *Jitney License.* The fee for a license granted by the City Council, with the approval of the Mayor, under Section 1 of Chapter 159A of the General Laws to operate a motor vehicle upon a public way for the carriage of passengers for hire, in such a manner as to afford a means of transportation similar to that afforded by a railway company, by indiscriminately receiving and discharging passengers along the route on which the vehicle is operated or may be running, or for transporting passengers for hire as a business between fixed and regular termini shall be two hundred fifty (\$250.00) dollars and an additional one hundred (\$100.00) dollars for each calendar year said license continues in effect; and the fee for an amendment of any such license shall be fifty (\$50.00) dollars. In accordance with Section 13B of Chapter 41 of the General Laws the City Clerk shall be and hereby is empowered to renew licenses issued under the provisions of Section 1 of Chapter 159A of said Laws.

(Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1990 c. 7)

2. *Junk Collector's License.* The fee for an annual junk collector's license granted by the Police Commissioner under subsection 17-4.1 shall be one hundred fifty (\$150.00) dollars.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 47)

3. *Junk Shopkeeper's License.* The fee for an annual junk shopkeeper's license granted by the Police Commissioner under subsection 17-4.1 shall be two hundred (\$200.00) dollars.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 48)

4. *Junk Yard Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 3.02 of the Boston Fire Prevention Code to conduct or maintain a junk yard shall be seven hundred (\$700.00) dollars annually.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 49; Ord. 1997 c. 2 § 38; Ord. 2011 c. 6)

18-1.11 "K" Fees and Charges.

1. *Kennel License.* The fee for a kennel license granted by the Police Commissioner under Section 137A of Chapter 140 of the General Laws shall be fifteen (\$15.00) dollars if four (4) dogs or less are kept in the kennel; thirty (\$30.00) dollars if more than four (4) but not more than ten (10) dogs are kept in

the kennel; and sixty (\$60.00) dollars if more than ten (10) dogs are kept in the kennel; except that a kennel license shall be issued without charge to any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect, or abuse and for the relief of suffering among animals. Dogs under the age of three (3) months shall not be counted in determining the fee for a kennel license.

(Ord. 1976 c. 11)

2. *Kennel Transfer License.* The fee for the issuance under Section 137A of Chapter 140 of the General Laws of a new license in the case of the removal of a kennel to Boston shall be three (\$3.00) dollars.

(Ord. 1976 c. 11)

18-1.12 "L" Fees and Charges.

1. *Labor, Claim For.* See "Works or Railroads and Railways."

2. *Licensed Establishment, Inspection Of.* The fee of the Commissioner of Inspectional Services for annually inspecting a licensed establishment under Section 108 of the State Building Code shall be, in the case of restaurants, lecture halls, recreation centers, terminals, and similar uses, seventy-five (\$75.00) dollars; provided that, in cases in which the licensed establishment accommodates four hundred (400) persons or less, the fee shall be thirty-seven dollars and fifty (\$37.50) cents; and provided further that, in cases in which more than five thousand (5,000) persons are accommodated, there shall be an additional fee of fifteen (\$15.00) dollars for each thousand (1,000) persons (or fraction thereof) accommodated over the first five thousand (5,000) persons. The fee to be charged by said Commissioner for annually inspecting nightclubs and similar uses (as defined in Section 203 of the State Building Code) shall be one (\$1.00) dollar per guest at maximum accommodation capacity. The fee to be charged by said Commissioner for Assembly Theaters (as defined in Section 108 of the State Building Code) shall be fifty (\$.50) cents per guest at maximum accommodation capacity. The fee to be charged by the said Commissioner for annually inspecting church assembly halls used for low-density recreation and similar uses and for annually inspecting the assembly halls of schools with ten (10) or more students shall be thirty-seven dollars and fifty (\$37.50) cents. The fee

of said Commissioner for annual inspection of stadiums, bleachers, etc., (as defined in Section 420 of the State Building Code) shall be thirty-seven dollars and fifty (\$37.50) cents for seating accommodations for up to five (5,000) persons, plus seven dollars and fifty (\$7.50) cents for the accommodation of each additional one thousand (1,000) persons or fraction thereof. The fee of said Commissioner for the annual inspection of jails, prisons, hospitals, sanitariums, and orphanages (as defined in Section 207 of the State Building Code) shall be one hundred (\$100.00) dollars for each structure containing up to one hundred (100) beds, plus two (\$2.00) dollars for each additional ten (10) beds or fraction thereof. The fee for the annual inspection of hotels, motels, lodging houses, dormitories, etc., shall be seventy-five (\$75.00) dollars for up to ten (10) units (as defined in Section 209 of the State Building Code) plus ten (\$10.00) dollars per unit for each unit in excess of ten (10) units. The fee for any additional inspection required prior to the issuance of a certificate shall be fifty (\$50.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 28; Ord. 1995 c. 8 § 8)

3. *Licensing Board, Filing Fee for Amendment, Transfer, or Alterations.* The fee to be charged by the Licensing Board for the filing of an application for transfer, changing management, classification, or description of premises to an existing license issued by the Licensing Board shall in the case where such amendment, change, or alteration involves expenditures by said Licensing Board for public notices, and/or public hearings, and/or administrative cost, and/or stenographic costs shall be one hundred (\$100.00) dollars; provided, however, that in the case of an amendment, change or alteration to an existing license, which does not involve said expenditures the fee shall be thirty (\$30.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 35)

4. *Liquefied Petroleum Gas Equipment Permit.* The fee for a permit granted by the head of the Fire Department under Section 10A of Chapter 148 of the General Laws to install or connect liquefied petroleum gas equipment shall be one hundred ten (\$110.00) dollars per installation or connection.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 50; Ord. 1990 c. 5, Ch. 6 § 22; Ord. 1997 c. 2 § 39; Ord. 2011 c. 6)

5. *Loading Zone Designation.* The fee for the annual designation of a loading zone by the Commissioner of Traffic and Parking under Section 2A of Chapter 263 of the Acts of 1929 shall, in Zone A be twenty (\$20.00) dollars for each foot of curbing abutting on said zone and in Zone B be ten (\$10.00) dollars for each foot of curbing abutting on said zone, provided that where a loading zone is permitted for valet parking the fee shall be forty (\$40.00) dollars for each foot of curbing abutting on said zone. The zones shall be defined by the Commissioner of Traffic and Parking and set forth in the Traffic and Parking Regulations. The charge to be paid for the erection by such Commissioner upon the request of the applicant for such designation of a sign in connection with such designation shall be one hundred fifty (\$150.00) dollars which shall include maintenance for five (5) years.

(Ord. 1976 c. 11; Ord. 1981 c. 33; Ord. 1985 c. 4 § 5; Ord. 1998 c. 6 § 2)

6. *Locations.* See "Public Utility Locations."

7. *Lodging House License.* The fee for a lodging house license granted by the Licensing Board under Section 23 of Chapter 140 of the General Laws shall be, in the case of a lodging house certified by the Building Department as having an occupancy of less than ten (10) rooms to let or adapted for letting to lodgers, seventy-five (\$75.00) dollars and in the case of a lodging house certified by the Building Department as having an occupancy of ten (10) or more, but less than twenty (20) such rooms, one hundred fifty (\$150.00) dollars; and in the case of a lodging house certified by the Building Department as having an occupancy of twenty (20) or more such rooms, but less than thirty (30) such rooms, two hundred twenty-five (\$225.00) dollars; and in the case of a lodging house certified by the Building Department as having an occupancy of thirty (30) or more, but less than forty (40) such rooms, three hundred (\$300.00) dollars; plus an additional fee of four (\$4.00) dollars for the fortieth (40th) room and four (\$4.00) dollars for each additional room.

(Ord. 1976 c. 11; Ord. 1981 c. 35)

8. *Lumber Yard Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 23.01 of the Boston Fire Prevention Code to store in excess of one hundred thousand (100,000)

board feet of lumber shall be seven hundred (\$700.00) dollars annually.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 52; Ord. 1997 c. 2 § 40; Ord. 2011 c. 6)

9. *Lunch Cart License.* The fee for an annual license to maintain a vehicle for the sale of food in a public way granted by the Commissioner of Public Works and the Police Commissioner under Section 49 of Chapter 140 of the General Laws shall be two hundred forty (\$240.00) dollars.

(Ord. 1976 c. 11; Ord. 1982 c. 5)

Editor's Note:

The powers and duties of the Traffic and Parking Commission, the Traffic and Parking Commissioner and the Traffic and Parking Department were assumed by the Transportation Commission, the Transportation Commissioner and the Transportation Department respectively under the provisions of s. 20 of Ch. 608 of the Act of 1986.

18-1.13 "M" Fees and Charges.

1. *Reserved.*

(Ord. 1976 c. 11; repealed by Ord. 1990 c. 5, Ch. 6 § 23)

2. *Manure, Permit for Removal Of.* The fee for an annual permit for the removal of manure granted by the Board of Health and Hospitals pursuant to subsection 16-1.12 shall be fifty (\$50.00) dollars.

3. *Marriage License.* The fee of the City Registrar for entering notice of intention of marriage and issuing certificate thereof shall be fifty (\$50.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 1985 c. 4 § 53; Ord. 1996 c. 5 § 2; Ord. 2003 c. 11 § 1)

4. *Marriages.* See "Births, Marriages and Deaths."

5. *Marriages Solemnized Outside Massachusetts, Recording Of.* The fee of the City Registrar for receiving under Section 36 of Chapter 207 of the General Laws a Certificate of Declaration of Marriage solemnized outside Massachusetts shall be fifty (\$50.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 14; Ord. 1990 c. 5, Ch. 9 § 7; Ord. 1996 c. 5 § 3; Ord. 2003 c. 10 § 1)

5A. *Massage Establishment License.* The fee for an annual license to own and/or operate a massage establishment granted by the Inspectional Services Department under MGL, Chapter 140, Section 51 shall be one hundred (\$100.00) dollars. (Ord. 2007 c. 9)

6. *Massage License.* The fee for an annual license to practice massage granted by the Board of Health and Hospitals under Section 51 of Chapter 140 of the General Laws shall be one hundred (\$100.00) dollars. (Ord. 1976 c. 11; Ord. 2007 c. 9)

6A. *Master Box Fee.* The fee of the Commissioner of the Boston Fire Department for accommodating a request for access to the Boston Fire Department's Municipal Fire Alarm System shall be six hundred dollars (\$600.00) annually. (Ord. 2004 c. 3)

7. *Matches, Permit to Manufacture.* The fee for permit granted by the Chief of the Fire Department under Section 24.01 of the Boston Fire Prevention Code to manufacture matches shall be one hundred ten (\$110.00) dollars annually. (Ord. 1976 c. 11; Ord. 1985 c. 4 § 54; Ord. 1997 c. 2 § 41; Ord. 2011 c. 6)

8. *Matches, Permit to Store.* The fee for a permit granted by the Chief of the Fire Department under Section 24.01 of the Boston Fire Prevention Code to store in excess of eight hundred sixty-four thousand (864,000) matches shall be forty-five (\$45.00) dollars annually. (Ord. 1976 c. 11; Ord. 1985 c. 4 § 55; Ord. 1997 c. 2 § 42; Ord. 2011 c. 6)

9. *Material, Claims For.* See "Railroads and Railways."

10. *Meter Removal and Reinstallation.* The fee for the removal and the reinstallation of a parking meter by the Commissioner of Transportation shall be forty (\$40.00) dollars for each meter. For each meter removed there shall be a per diem fee of twenty-five (\$25.00) dollars. This fee shall be determined in accordance with the provisions of the Street Occupancy Permit which specifies the estimated length of time of the project and shall be paid prior to the initiation of the project. Adjustments in the per

diem fee shall be determined by the Commissioner of Transportation upon the reinstallation of the meter. Requests for reimbursements must be filed in writing with the Commissioner of Transportation within thirty (30) days of the reinstallation of the meter. The fee for the removal and reinstallation of a parking meter pole shall be one hundred (\$100.00) dollars. (Ord. 1985 c. 4 § 56; Ord. 1990 c. 5, Ch. 10 § 1; Ord. 2010 c. 4)

11. *Milk License.* The fee for a license granted by Board of Health and Hospitals under Section 41 of Chapter 94 of the General Laws to deliver, exchange, expose for sale or sell, or have in custody or possession with intent so to do, milk, skimmed milk, or cream, shall be thirty (\$30.00) dollars for each premises. (Ord. 1976 c. 11; Ord. 1977 c. 9, c. 15; Ord. 1981, c. 34; Ord. 1990 c. 5, Ch. 7 § 14; Ord. 2007 c. 9)

12. *Milk Pasteurization Plant License.* The fee for a license granted by the Board of Health and Hospitals under Section 48A of Chapter 94 of the General Laws for the maintenance of an establishment for the pasteurization of milk shall be seven hundred fifty (\$750.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 34)

13. *Minor's Badge, Etc.* The fee for a minor's badge, whether issued by the City Clerk under Section 17-5 or by the Superintendent of Schools (or a person authorized by him in writing) under Section 70 of Chapter 149 of the General Laws or under regulations made by the school committee pursuant to Section 19 of Chapter 101 of the General Laws, shall be one (\$1.00) dollar; but no fee shall be charged for a minor's license under said Section 17.5 or for an employment permit or educational certificate issued under any provision of said Chapter 149. (Ord. 1976 c. 11)

14. *Mobile Food Server or Prepared Food Vending Vehicle, Permit For.* The fee for a permit granted by the Board of Health under the State Sanitary Code for the operation of a mobile food server or prepared food vending vehicle shall be one hundred (\$100.00) dollars. This fee shall equally apply to the operation of prepared food vending push carts, bicycles and stands. The provisions of this paragraph shall not apply to vehicles licensed to vend within the market limits under City of Boston Code, Ordinances, Chapter XVI, subsection 16-2.1, nor to

vehicles which deliver dairy and/or bakery products to residences and retail stores.
(Ord. 1976 c. 11; Ord. 1977 c. 7; Ord. 1981 c. 34; Ord. 1990 c. 5, Ch. 7 § 15)

15. *Mortgages.* See “Personal Property Mortgages, Etc.,” also “Real Estate Tax Payment Certificate.”

16. *Motel, Etc., License For.* The fee for a license granted by the Board of Health and Hospitals under Section 32B of Chapter 140 of the General Laws for a recreational camp, or an overnight camp or cabin, or a motel shall be, in the case of an original license two hundred (\$200.00) dollars plus the cost of publishing the notice of hearing, and in the case of a renewal license, fifty (\$50.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 34)

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17. *Motor Carriers*. See "Jitney License."

18. *Moving Pictures, Permit for Special Exhibition Of*. The fee for a permit granted by the Mayor under Section 1 of Chapter 280 of the Acts of 1913 for a special exhibition of moving pictures shall be ten (\$10.00) dollars.
(Ord. 1976 c. 11)

19. *Municipal Lien Certificate*. The fee for a certificate of liens as provided in Section 23B of Chapter 60 of the General Laws shall be as follows:

(a) For land of less than one acre upon which there is no permanent structure, a fee of twenty-five (\$25.00) dollars;

(b) For land upon which is situated no more than a single-family residence and outbuildings, a fee of twenty-five (\$25.00) dollars;

(c) For land upon which is situated no more than a two (2) family residence and outbuildings, a fee of twenty-five (\$25.00) dollars;

(d) For land upon which is situated no more than a three (3) family residence and outbuildings, a fee of twenty-five (\$25.00) dollars;

(e) For land upon which is situated a residence for four (4) or more families, a fee of one hundred (\$100.00) dollars;

(f) For land upon which is situated a commercial industrial or public utility structure, a fee of one hundred fifty (\$150.00) dollars;

(g) For farms, forest land, and all other real property, a fee of fifty (\$50.00) dollars.
(Ord. 1976 c. 11; Ord. 1978 c. 1; Ord. 1990 c. 5, Ch. 11 § 1)

20. *Musicians, Band or Group Itinerant*. The fee for an itinerant musicians' license granted by the Police Commissioner under subsection 16-12.24 for a band or group of musicians shall be five (\$5.00) dollars, except that in cases where such a license is granted for a period longer than one month, the fee therefor shall be five, (\$5.00) dollars for each monthly period for which it is granted.
(Ord. 1976 c. 11)

21. *Musicians, Individual Itinerant*. The fee for an annual itinerant musician's license granted an individual musician by the Police Commissioner under Subsection 16-12.24 shall be ten (\$10.00) dollars.
(Ord. 1976 c. 11)

22. *Musicians*. See also "Sound Trucks."

23. *Multi-family Residential Inspection Fees*. The fee to be charged by the Inspectional Services Department for inspections of multi-family residential structures under Article 108.5.1 of 780 CMR in the R-2 use group, shall be the fee set forth in 780 Code of Massachusetts Regulations Table 108, as the same may be amended from time to time.
(Ord. 1995 c. 8 § 9)

18-1.14 "N" Fees and Charges.

1. *Newsboys on Common*. The fee for an annual permit granted by the Mayor under subsection 16-19.2 to sell newspapers on the Common shall be fifty (\$50.00) dollars.
(Ord. 1976 c. 11)

2. *Nitrocellulose, Permit for Outdoor Storage Of*. The fee for a permit granted by the Chief of the Fire Department under Section 10A of Chapter 148 of the General Laws for the outdoor storage of nitrocellulose shall be forty-two (\$42.00) dollars for each calendar month in which such permit may be exercised.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 57; Ord. 1997 c. 2 § 43; Ord. 2011 c. 6)

3. *Non-Intoxicating Beverages License*. The fee for a license to sell non-intoxicating beverages, whether by machine or over-the-counter or by vendor, granted by the Licensing Board under Section 21B of Chapter 140 of the General Laws shall be sixty (\$60.00) dollars.
(New; Ord. 1981 c. 35)

4. *Non-Resident of Commonwealth Doing Business in City, Certificate and Statement Of*. The fee of the City Clerk for receiving and filing a certificate and statement under Section 5A of Chapter 227 of the General Laws shall be twenty-five (\$25.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

18-1.15 "O" Fees and Charges.

1. *Offensive Trade, Assignment of Location For.* The fee for the assignment by the Board of Health and Hospitals under Section 143 of Chapter 111 of the General Laws of a location for the exercise of a trade or employment referred to in Section 143 shall be two hundred fifty (\$250.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 34)

2. *Offensive Trade, Permit to Occupy or Use Building For.* The fee for a permit from the Mayor and City Council under Section 151 of Chapter 111 of the General Laws to occupy or use a building for carrying on the business of slaughtering cattle, horses, mules, sheep, or other animals, or for a melting or rendering establishment, or for other noxious or offensive trade or occupation, or to permit or allow such a trade or occupation to be carried on upon premises owned or occupied by the permittee shall be twenty-five (\$25.00) dollars. (Ord. 1976 c. 11)

3. *Oil Burner.* See "Fuel Oil Burner."

4. *Optometrist's Certificate.* The fee of the City Clerk for recording under Section 70 of Chapter 112 of the General Laws an optometrist's certificate of registration, or for issuing thereunder a certified copy of such a certificate, or for receiving and filing thereunder such a certified copy shall be one hundred (\$100.00) dollars. (Ord. 1976 c. 11; Ord. 1997 c. 4, Ch. 2 § 6)

5. *Osteopath's Certificate.* The fee of the City Clerk for recording under Section 8 of Chapter 112 of the General Laws, by virtue of Section 10 of said Chapter, an osteopath's certificate of registration or, in a case where it is lost, the certified statement provided for by said Section 8, shall be one hundred (\$100.00) dollars. (Ord. 1976 c. 11; Ord. 1997 c. 4, Ch. 2 § 7)

6. *Oven, Permit to Operate Industrial Baking or Drying.* The fee for a permit granted by the Chief of the Fire Department under Section 26.02 of the Boston Fire Prevention Code to operate one or more industrial baking or drying ovens shall be one hundred forty-five (\$145.00) dollars annually. (Ord. 1976 c. 11; Ord. 1985 c. 4 § 58; Ord. 1990 c. 5, Ch. 6 § 24; Ord. 1997 c. 2 § 44; Ord. 2011 c. 6)

7. *Oxygen and Acetylene, Permit for Storage or Use in Conjunction.* The fee for an annual permit granted by the Chief of the Fire Department under Section 10A of Chapter 148 of the General Laws for the storage or use of oxygen and acetylene in conjunction shall be nine (\$9.00) dollars for each one hundred (100) cubic feet or fraction thereof of gases up to the first one thousand (1,000) cubic feet, and six (\$6.00) dollars for each one hundred (100) cubic feet or fraction thereof of gases in excess of the first one thousand (1,000) cubic feet.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 45; Ord. 2011 c. 6)

18-1.16 "P" Fees and Charges.

1. *Parking Space, Inspection Of.* The fee to be charged by the Chief of the Fire Department for annually inspecting pursuant to Section 56 of Chapter 148 of the General Laws any open-air parking space licensed under paragraph 2 of this subsection, or to be so licensed, and for issuing a report or certificate of such inspection, shall be one hundred (\$100.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 46; Ord. 2011 c. 6)

2. *Parking Space License.* The fee for a license granted by the Commissioner of Transportation under Section 56 of Chapter 148 of the General Laws to engage in the business of conducting or maintaining an open-air parking space in the City of Boston shall be five (\$5.00) dollars per space per month for all such open-air parking spaces, regardless of capacity, within the area bounded by and including Boston Harbor, the Charles River, the Boston University Bridge, the Brookline town line, Huntington Avenue, Ruggles Street, the M.B.T.A. Southwest Corridor, Massachusetts Avenue, Albany Street, the Broadway Bridge, Broadway, C Street, Summer Street and the Viaduct extended to Boston Harbor. The fee for such a license shall be two dollars and fifty (\$2.50) cents per space per month for all such open-air parking spaces outside the above described area with capacities for greater than forty-nine (49) vehicles. The fee for such a license shall be two (\$2.00) dollars per space per month for all such open-air parking spaces outside the above described area with capacities for forty-nine (49) or fewer vehicles. (Ord. 1976 c. 11; Ord. 1981 c. 33; Ord. 1985 c. 4 § 59; Ord. 1988 c. 8 § 1; Ord. 2008 c. 5)

3. *Park Land Demonstration.* The fee for a permit granted by the Commissioner of Parks and Recreation to demonstrate shall be as set forth in Subsection 16-19.3.

(Ord. 1983 c. 26 § 2)

4. *Parkway or Street Occupancy Permit for Awnings, Canopies, or Marquees.* The fee for an annual permit for the permanent projection over a parkway, other way under the control of the parks and recreation commission, or public way, of one or more awnings, canopies, or marquees shall be, in the case of those without a sign, a primary fee of one hundred (\$100.00) dollars per residential or business establishment and an additional fee of eight (\$8.00) dollars for each one hundred (100) square feet, or part thereof, of way covered thereby, such calculation being made cumulatively; and in the case of those with a sign or signs, a primary fee of one hundred forty (\$140.00) dollars per residential or business establishment and an additional fee of eight (\$8.00) dollars for each one hundred (100) square feet, or part thereof, of way covered thereby, such calculation being made cumulatively and, a further additional fee of four (\$4.00) dollars for each ten (10) square feet, or part thereof, of the face area of the sign or signs determined by aggregating the face area of each sign computed (without regard to its shape) by multiplying its maximum height by its maximum width within the limits of the way; provided, however, that the primary fee for renewal of such permit for which the fee is paid on or before the expiration date of said permit shall be, for those without a sign eighty (\$80.00) dollars per residential or business establishment, and, in the case of those with a sign or signs one hundred (\$100.00) dollars per residential or business establishment. The fee for an annual permit for the projection over a parkway, other way under the control of parks and recreation commission, or public way, of one or more retractable awnings shall be a primary fee of twenty (\$20.00) dollars per residential or business establishment and an additional fee of eight (\$8.00) dollars for each one hundred (100) square feet, or part thereof, of way covered thereby, such calculation being made cumulatively. The fee for the temporary projection over a parkway, other way under the control of the parks and recreation commission, or public way, of one or more signs, canopies, or marquees, shall be forty-eight (\$48.00) dollars per building or structure for each day for which such permit is granted.

(New; Ord. 1982 c. 5; Ord. 1985, c. 4 § 71; Ord. 1986 c. 21 § 1)

5. *Parkway or Street Occupancy Permit for Awning Work.* The fee for a permit to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for the purpose of placing, repairing, or removing one or more awnings on a specified building or structure shall be six (\$6.00) dollars for each monthly period for which such permit is granted and the fee for an annual permit so granted to occupy and obstruct portions of ways or streets for the purpose of placing, repairing and removing awnings on buildings and structures shall be six hundred (\$600.00) dollars.

(New; Ord. 1982 c. 5)

6. *Parkway or Street Occupancy Permit for Building Construction, Repair, Demolition, Etc.* The fee for a permit to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets in connection with the erection, alteration, repair, painting, cleaning, decorating, demolition, or removal of a building or structure shall be, for each monthly period in which such permit may be exercised, a primary fee of twenty (\$20.00) dollars and an additional fee of one (\$1.00) dollar for each square foot of way or street to be occupied or obstructed at any one time in such period, except that the total fee for a permit so granted to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for the purpose of making to a specified building or structure alterations or repairs requiring not more than three (3) consecutive working days to complete, shall be twenty (\$20.00) dollars, and except further, that the total fee for an annual permit so granted to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for the purpose of cleaning decorative and sign work on a specified building or structures or removing stains from such building or structure or for both purposes shall be fifty (\$50.00) dollars.

Permits under this paragraph shall be granted for the period of time such occupancy will necessarily continue, not exceeding one year. The total fee for an annual permit so granted to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for building construction or repair shall be the aforesaid primary fee plus six (6) times the aforesaid monthly additional fee.

(Ord. 1976 c. 11; Ord. 1982 c. 5, c. 28)

7. *Parkway or Street Occupancy Permit for Building Moving.* The fee for a permit to move a building in a parkway, other way under the control of the Parks and Recreation Commission, street or streets shall be three hundred (\$300.00) dollars for the first day and one hundred fifty (\$150.00) dollars for each additional day on which it may be exercised. (Ord. 1976 c. 11; Ord. 1982 c. 5)

8. *Parkway or Street Occupancy Permit for Heating Plant Cleaning.* The fee for a permit to occupy or obstruct a portion of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for the purpose of cleaning the heating plant or plants of a specified building or structure shall be ten (\$10.00) dollars and the fee for an annual permit so granted to occupy and obstruct portions of parkways, other ways under the control of the Parks and Recreation Commission or streets for the purpose of cleaning heating plants of buildings and structures shall be six hundred (\$600.00) dollars. (New; Ord. 1982 c. 5)

8A. *Parkway or Street Occupancy Permit for Moving Truck.* The fee for a permit to occupy or obstruct a portion or portions of a parkway, under the control of the Parks and Recreation Commission or streets or street under the control of the Commissioner of Public Works, in connection with the movement of items to or from a dwelling or commercial operation by a commercial moving truck operator, a leased vehicle, or a leased storage container, shall be fifty (\$50.00) dollars for up to two (2) days for a vehicle and up to five (5) days for a storage container, plus an additional fee per day per square foot of parkway or street to be occupied or obstructed. This additional fee shall be the daily apportionment of the per square foot amount charged per month in the City of Boston Code, Ordinances, Chapter XVIII, subsection 18-1.16(6). (Ord. 2011 c. 4)

9. *Parkway or Street Occupancy Permit for Oversized Vehicles, Etc.* The fee for a permit to operate on a parkway, other way under the control of the Parks and Recreation Commission or public way a motor vehicle or trailer having an outside width of more than ninety-six (96") inches, or an extreme overall length of more than thirty-three (33') feet, or a vehicle of a height in excess of thirteen feet six (13'6") inches shall be sixteen (\$16.00) dollars a day. (Ord. 1982 c. 5)

10. *Parkway or Street Occupancy Permit for Overweight Trailers.* The fee for a permit to operate or draw on a parkway, other way under the control of the Parks and Recreation Commission, or public way a trailer which with its load weighs more than five thousand (5,000) pounds, other than a semitrailer, a heavy duty platform trailer, a cable-reel trailer, a house trailer, or a trailer which is an apparatus or other object on wheels not used to transport other things for delivery shall be sixteen (\$16.00) dollars a day. (Ord. 1982 c. 5)

11. *Parkway or Street Occupancy Permit for Overweight Vehicles, Etc.* The fee for a permit to operate or move on a parkway, other way under the control of the Parks and Recreation Commission or public way a vehicle or object weighing more than fourteen (14) tons or, in the case of a vehicle equipped with pneumatic tires, more than fifteen (15) tons shall be sixteen (\$16.00) dollars a day. (Ord. 1982 c. 5)

12. *Parkway or Street Occupancy Permit for Public Utility Work.* The fee for an annual permit to occupy or obstruct portions of parkways, other ways under the control of the Parks and Recreation Commission or streets for the purpose of clearing manholes and placing and testing equipment shall be two hundred fifty (\$250.00) dollars for each ward for which such permit is granted. (Ord. 1982 c. 5)

13. *Parkway or Street Occupancy Permit for Raising or Lowering Goods.* The fee for a permit to occupy, obstruct, or use a portion of a parkway, other way under the control of the Parks and Recreation Commission, or street for the purpose of raising or lowering goods or merchandise into or from a specified building or structure shall be twenty-five (\$25.00) dollars. (Ord. 1982 c. 5)

14. *Parkway or Street Occupancy Permit for Sign.* The fees for an annual permit for the placement on, or the projection over, a parkway, other way under the control of the Parks and Recreation Commission or public way of a sign, advertising device, clock, or other like structure shall be a primary fee of fifty (\$50.00) dollars and an additional fee of two (\$2.00) dollars for each ten (10) square feet of the total face area thereof determined by aggregating the area of each face as computed without

regard to its shape by multiplying its maximum height by its maximum width within the limits of a way, provided, however, that the primary fee for a renewal permit for which the fee is paid on or before the expiration date of the permit renewed shall be twenty (\$20.00) dollars. The fees for an annual permit for the placement on, or the projection over a parkway, other way under the control of the Parks and Recreation Commission, or public way of a lamp, meathook, or other miscellaneous small structure bearing no advertising message shall be a primary fee of ten (\$10.00) dollars and an additional fee as determined by the department empowered by ordinance to collect the fee. There shall be no fee for a lamp, clock, or other device of street furniture, so-called, bearing no advertising and exempted from the provisions hereof by the Art or Landmarks Commissions.
(Ord. 1982 c. 5)

15. *Parkway or Street Occupancy Permit for Sign Work.* The fee for a permit to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for the purpose of placing, painting, repairing, or removing a sign on a specified building or structure shall be ten (\$10.00) dollars for each monthly period for which such permit is granted; and the fee for an annual permit so granted to occupy and obstruct portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets, for the purposes of placing, painting, or repairing and removing signs on buildings and structures shall be one thousand (\$1,000.00) dollars.
(Ord. 1982 c. 5)

16. *Parkway or Street Occupancy Permit for Snow Removal from Building.* The fee for an annual permit to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for the purpose of removing snow and ice from a specified building or structure shall be ten (\$10.00) dollars.
(Ord. 1976 c. 11; Ord. 1982 c. 5)

17. *Parkway or Street Occupancy Permit for Storage and Sale of Merchandise.* The fee for a license to use specified parts of parkways, other ways under the control of the Parks and Recreation Commission, or public streets for the storage and sale of merchandise shall be such sum, not less than fifty (\$50.00) dollars or more than ten thousand (\$10,000.00) dollars as the Commissioner empowered

by ordinance shall determine approximates the value of the privilege granted.
(Ord. 1982 c. 5)

18. *Parkway or Street Occupancy Permit for Window Cleaning.* The fee for an annual permit to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for the purpose of cleaning one or more windows of a specified building or structure shall be ten (\$10.00) dollars and the fee for an annual permit so granted to occupy and obstruct portions of parkways, other ways under the control of the Parks and Recreation Commission, or streets for the purpose of cleaning windows of buildings and structures shall be six hundred (\$600.00) dollars.
(Ord. 1982 c. 5)

19. *Parkway or Street Occupancy Permit for Window Glazing.* The fee for a permit to occupy or obstruct a portion or portions of a parkway, other way under the control of the Parks and Recreation Commission, street or streets for the purpose of glazing one or more window sashes of a specified building or structure shall be ten (\$10.00) dollars for each monthly period for which such permit is granted; and the fee for an annual permit so granted to occupy and obstruct portions of parkways, other ways under the control of the Parks and Recreation Commission, or streets for the purpose of glazing window sashes of buildings and structures shall be six hundred (\$600.00) dollars.
(Ord. 1982 c. 5)

20. *Pawnbroker's License.* The fee for a pawnbroker's license granted by the Police Commissioner under Section 70 of Chapter 140 of the General Laws shall be one hundred (\$100.00) dollars.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 60)

21. *Peddlers.* See "Hawkers and Peddlers."

22. *Physician's Certificate.* The fee of the City Clerk for recording under Section 8 of Chapter 112 of the General Laws a physician's certificate of registration, or, in a case where it is lost, the certified statement provided for by said Section 8, shall be one hundred (\$100.00) dollars.
(Ord. 1976 c. 11; Ord. 1997 c. 4, Ch. 2 § 8)

23. *Picnic Grove License.* The fee for a license to establish, let, keep open, maintain a grove to be

used for picnics and other lawful gatherings granted by the Licensing Board under Section 188 of Chapter 140 of the General Laws shall be two hundred (\$200.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 35)

24. *Plastics, Permit to Manufacture or Handle.*

The fee for a permit granted by the Chief of the Fire Department under Section 15.10 of the Boston Fire Prevention Code to manufacture and/or handle plastics shall be five hundred twenty-five (\$525.00) dollars annually.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 61; Ord. 1997 c. 2 § 47; Ord. 2011 c. 6)

25. *Playing Fields.* The fee to be charged by the Commissioner of Parks and Recreation for the use of a lighted playing field shall be twenty-five (\$25.00) dollars per hour in the case of residents of the City of Boston and in the case of users who are not residents of the City of Boston, the fee for such use of a lighted playing field shall be one hundred (\$100.00) dollars per hour. Said fee shall not be charged to any organization who can demonstrate to the Park Commissioner its affiliation with an organized youth recreation group and/or an organized neighborhood youth group including, but not limited to, the Little League, Babe Ruth League, Ted Williams League, City of Boston Youth League, CYO, and/or any neighborhood youth athletic team. All proceeds from these fees shall be used exclusively for Parks and Recreation purposes.

(New; Ord. 1981 c. 5; Ord. 2010 c. 11)

26. *Pledge of Personal Property.* See "Personal Property in Pledge."

27. *Plumbing Installation, Alteration or Repair Permit.* The fee of the Commissioner of Inspectional Services for receiving an application for a permit under Section 113 of the Commonwealth of Massachusetts State Building Code to install, alter, or repair plumbing in any construction or existing structure shall be a primary fee of twenty (\$20.00) dollars plus a fee of five (\$5.00) dollars for each fixture to be installed, altered, or substantially repaired.

(Ord. 1976 c. 11; Ord. 1981 c. 28; Ord. 1990 c. 5, Ch. 7 § 16; Ord. 2010 c. 5)

28. *Podiatrist's Certificate.* The fee of the City Clerk for recording under Section 21 of Chapter 112

of the General Laws the name and address of a registered podiatrist and the date and number of his certificate shall be one hundred (\$100.00) dollars.

(Ord. 1976 c. 11; Ord. 1997 c. 4, Ch. 2 § 9)

29. *Pool Room License.* The fees for a license to keep a billiard, pool, or sippio table for hire, gain, or reward granted by the Licensing Board under Section 177 of Chapter 140 of the General Laws shall be a primary fee of thirty (\$30.00) dollars and an additional fee of twenty (\$20.00) dollars for each table.

(Ord. 1976 c. 11; Ord. 1981 c. 35)

30. *Poultry, Permit to Keep.* The fee for an annual permit to keep poultry granted by the Board of Health and Hospitals under subsection 16-1.8 shall be a primary fee of twenty (\$20.00) dollars and an additional fee of ten (\$10.00) dollars for each fifty (50) kept.

(Ord. 1976 c. 11; Ord. 1981 c. 34)

31. *Poultry Slaughterhouse License.* The fee for a license granted by the Board of Health and Hospitals under Section 139A of Chapter 94 of the General Laws for the maintenance of an establishment for the slaughtering of poultry shall be one hundred (\$100.00) dollars.

(Ord. 1976 c. 11)

32. *Power of Attorney.* The fee of the City Clerk for recording under Section 3 of Chapter 255 of the General Laws a power of attorney shall be ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

33. *Reserved.* Repealed by Ord. 1987 c. 9.

34. *Proprietors of Common Property; Deposit of Records Of.* The fee of the City Clerk for receiving records of the proprietors of common property deposited under Section 15 of Chapter 179 of the General Laws shall be five (\$5.00) dollars.

(Ord. 1976 c. 11)

35. *Public Grounds; Permits for Use for Commercial Purposes or When Admission Is to Be Had for Consideration Paid and Other Uses.* The fee for a permit for use of public grounds for the purpose of conducting an event, show, exhibition, amusement,

or the like, upon any public grounds owned or controlled by, or in the care of, the City or any department or division thereof, including the Common, shall be one hundred (\$100.00) dollars and in addition, such amount as the Board or officer exercising care or control with respect thereto shall determine approximates the cost to the City of police and fire protection, control of traffic, cleaning, repairs and restoration of the grounds, and such other costs to the City as such will cause, on or about the premises in those cases where such use is for commercial purposes; where admission is restricted to those making a payment of money or a thing of value; and, one hundred (\$100.00) dollars otherwise, provided that nothing herein shall require the issuance of such a permit.

(Ord. 1982 c. 40 § 1)

36. *Public Records; Furnishing Copy Of.* Except as otherwise expressly provided by this section, the fee for the furnishing under Section 10 of Chapter 66 of the General Laws by any Board or Officer of the City a copy of a public record in his or its custody shall be fifty (\$.50) cents for each page or part thereof, not exceeding nine (9") inches by fourteen (14") inches, except that the fee for furnishing copies of plans and of records larger than nine (9") inches by fourteen (14") inches shall be two (\$2.00) dollars for each sheet, page, or part thereof.

(Ord. 1976 c. 11; Ord. 1982 c. 4) *Superseded by 950 CMR 32.06*

37. *Public Utility; Condensed Return.* The fee of the City Clerk for receiving and filing under Section 84A of Chapter 164 of the General Laws or under Section 12A of Chapter 166 of the General Laws, a copy of a condensed return of business and financial condition shall be ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

38. *Public Utility Locations Granted by Building Commissioner.* The fee of the City Clerk for recording under Section 22 of Chapter 166 of the General Laws an attested copy of an order of the Building Commissioner granting under Chapter 268 of the Special Acts of 1915 a location for underground wires, cables, conductors, or conduits shall be forty (\$40.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1990 c. 5, Ch. 2 § 6)

39. *Public Utility Locations Granted by D.P. U.* The fee of the City Clerk for recording under Section 70A of Chapter 164 of the General Laws an attested copy of an order of the State Department of Public Utilities granting a location for a main for the transmission of gas, or for recording under Section 28 of Chapter 166 of the General Laws an attested copy of an order of said Department granting a location for a line for the transmission of electricity, including in either case, certificate by Clerk of said Department as to notice and hearing, shall be forty (\$40.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1990 c. 5, Ch. 2 § 7)

40. *Public Utility Locations Granted by M.D.C.* The fee of the City Clerk for recording under Section 46 of Chapter 92 of the General Laws an attested copy of an order of the Metropolitan District Commission granting under Section 43 and 44 of said Chapter, or altering, extending, or revoking under Section 45 of said Chapter, a location, shall be forty (\$40.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1990 c. 5, Ch. 2 § 8)

41. *Public Utility Locations Granted by Public Improvement Commission.* The fee of the City Clerk for recording under Section 22 of Chapter 166 of the General Laws an attested copy of an order of the Public Improvement Commission granting a location, or an alteration of transfer thereof, or authorizing an increase in the number of wires or cables or attachments shall be forty (\$40.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13; Ord. 1990 c. 5, Ch. 2 § 9)

42. *Public Way, Certificate of Existence Of.* The fee of the City Clerk for furnishing under Section 79F of Chapter 233 of the General Laws a certificate that a particular way is a public way as a matter of record shall be five (\$5.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 13)

43. *Public Works.* See "Public Buildings and Works."

44. *Pulverizing Plant Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 10.03 of the Boston Fire Prevention

Code to operate a pulverizing plant shall be four hundred twenty (\$420.00) dollars annually.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 62; Ord. 1997 c. 2 § 48)

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

18-1.17 "Q" Fees and Charges.

Reserved.

18-1.18 "R" Fees and Charges.

1. *Radioactive Material, Permit to Handle and Store.* The fee for a permit granted by the Chief of the Fire Department under Section 20.03 of the Boston Fire Prevention Code to handle and store more than five hundred (500) millicuries of radioactive material shall be five hundred sixty-five (\$565.00) dollars annually.
(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 63; Ord. 1990 c. 5, Ch. 6 § 25; Ord. 1997 c. 2 § 49; Ord. 2011 c. 6)

2. *Raffle or Bazaar, Permit For.* The fee of the City Clerk receiving under Section 7A of Chapter 271 of the General Laws an application for a permit to conduct a raffle or bazaar shall be thirty (\$30.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

3. *Railroads and Railways; Claim (for Labor) Against.* The fee of the City Clerk for receiving and filing a sworn statement executed under Section 99 of Chapter 159 of the General Laws shall be five (\$5.00) dollars.
(Ord. 1976 c. 11)

4. *Railroads and Railways; Claim (for Materials) Against.* The fee of the City Clerk for receiving and filing under Section 98 of Chapter 159 of the General Laws a written notice or intention to claim a right of action under Section 96 of said Chapter against a railroad or railway shall be five (\$5.00) dollars.
(Ord. 1976 c. 11)

5. *Real Estate Tax Payment Certificate.* The fee for a certificate of the payment of a tax given by the

Collector-Treasurer under Section 60 of Chapter 60 of the General Laws shall be two (\$2.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 24)

6. *Refuse, Reception of Sanitary Landfill.* The charge to be paid to the Public Works Department for receiving refuse for disposal at a sanitary landfill other than from a contractor acting for said Department shall be four (\$4.00) dollars for each cubic yard.
(Ord. 1976 c. 11; Ord. 1982 c. 5)

7. *Refuse; Removal Of.* The charge to be paid the Public Works Department for removing refuse which by subsection 11-6.1, said department is authorized but not required to remove, shall be eighty (\$.80) cents a barrel.
(Ord. 1976 c. 11)

8. *Refuse; Permit to Transport.* The fee for a permit to transport refuse matter through the streets of the City granted by the Commissioner of Public Works under Section 23-1 shall be two hundred (\$200.00) dollars for each vehicle used in such transportation; provided, however, that for a vehicle which is under contract with the City of Boston for such use the fee shall be one hundred (\$100.00) dollars.
(Ord. 1976 c. 11; Ord. 1982 c. 5; Ord. 1991 c. 5 § 28)

9. *Registered Bonds; Issuance Of.* The fee of the Collector-Treasurer for issuing, pursuant to Sections 4, 5, and 6 of Chapter 107 of the General Laws, a registered bond, promissory note, or certificate of indebtedness of the City in exchange for any other bond, promissory note, or certificate of indebtedness of the City shall be two (\$2.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 24)

10. *Registration of Beverage Bottles.* The fee of the City Clerk for receiving and filing under Section 17 of Chapter 110 of the General Laws a description of the name used by a person engaged in manufacturing, bottling, or selling beverages in vessels shall be two (\$2.00) dollars.
(Ord. 1976 c. 11)

11. *Registration of Milk, Cream, and Ice Cream Cans.* The fee of the City Clerk for receiving and filing under Section 21 of Chapter 110 of the General Laws a description of the name used by a person engaged in buying, selling, or dealing in milk or cream in cans, or who uses cans, tubs, or cabinets in

the sale, transportation, or storage of frozen desserts and/or ice cream mix shall be two (\$2.00) dollars.
(Ord. 1976 c. 11)

12. *Registration of Permission to Use Another's Name on Milk Bottles.* The fee of the Inspector of milk for registering under Section 45 of Chapter 94 of the General Laws written permission to use the name of another on, or on cap, tag, or label attached to, milk vessels shall be two (\$2.00) dollars.
(Ord. 1976 c. 11)

13. *Registration of Towels, Garments, Aprons, and Linens.* The fee of the City Clerk for receiving and filing under Section 25A of Chapter 110 of the General Laws a description of the name used by a person engaged in the business of supplying or furnishing for hire or compensation on a rental or lease basis clean laundered garments, towels, aprons, bed linen, or table linen shall be five (\$5.00) dollars.
(Ord. 1976 c. 11)

13A. *Rent Equity Board.* The annual charge established by the Board shall be reflective of the costs incurred by the Board in providing services under Section 10-2; provided, however, that in no event shall such annual charge be less than twelve (\$12.00) dollars nor more than thirty-six (\$36.00) dollars per year per individual housing accommodation.
(Ord. 1991 c. 2 § 1)

14. *Resident Listing; Computer Tape Of.* The charge to be paid for a computer tape of the annual list of residents issued by the Election Commissioners shall be eight hundred fifty (\$850.00) dollars per copy and a charge of three hundred (\$300.00) dollars to up-date said tape, upon surrender of the tape originally supplied.
(Ord. 1976 c. 11; Ord. 1981 c. 27; Ord. 1990 c. 5, Ch. 4, § 2)

14A. *Resident Listing, Printed Labels Of.* The charge to be paid for a list of residents printed in address label format, issued by the Board of Election Commissioners, shall be two (\$.02) cents per name; provided that the total charge for each request therefor shall not be less than fifty (\$50.00) dollars.
(Ord. 1990 c. 5, Ch. 4 § 3)

15. *Resident Listing; Printed List Of.* The charge to be paid for the annual list of residents, issued by the Listing Board, printed in book form, shall be four

hundred (\$400.00) dollars or two (\$2.00) dollars per precinct, provided, however, that there shall be issued to each certified candidate for public office a set of the current annual list of residents for the complete district in which said candidate is seeking office.
(Ord. 1976 c. 11; Ord. 1981 c. 27; Ord. 1990 c. 5, Ch. 4 § 4)

16. *Retail Food Establishment; Permit For.* The fee for a permit granted by the Board of Health and Hospitals under Subsection 16-1.6A for the operation of a retail food establishment shall be one hundred (\$100.00) dollars plus fifty (\$50.00) dollars for each one thousand (1,000) square feet, or portion thereof, in excess of twenty-five hundred (2,500) square feet of floor area used for the storage, preparation or merchandising of foodstuffs, excluding therefrom such area as is devoted to the manufacture of baked goods and/or to food service, for which a fee is paid under these Ordinances.
(Ord. 1976 c. 11; Ord. 1977 c. 9; Ord. 1981 c. 34; Ord. 1985 c. 4 § 77; Ord. 1990 c. 5, Ch. 7 § 17; Ord. 1991 c. 5 § 4; Ord. 2007 c. 9)

17. *Rock Concert License.* The fee for a license granted by the Mayor under Section 181 of Chapter 140 of the General Laws for the presentation of a rock concert, so-called, shall be one hundred (\$100.00) dollars.
(Ord. 1976 c. 11)

18. *Roller Coaster License.* The fee for a license granted by the Mayor under Section 186 of Chapter 140 of the General Laws to establish, keep open, and maintain an inclined railway at a carnival, fifteen (\$15.00) dollars for each day on which such license may be exercised; and in the case of such an inclined railway other than at a carnival, fifty (\$50.00) dollars for each monthly period in which such license may be exercised; except that in the case of a roller coaster exclusively for children under thirteen (13), such fee shall be twenty-five (\$25.00) dollars for each monthly period.
(Ord. 1976 c. 11)

19. *Roller Skating Rink License.* The fee for an annual license granted by the Mayor under Section 186 of Chapter 140 of the General Laws to establish, keep open, and maintain a skating rink to be used for roller skating shall be fifty (\$50.00) dollars.
(Ord. 1976 c. 11)

20. *Rubbish Containers, Fee for Permit for Approved Containers, Movable Only with Mechanical Assistance.* The fee for a permit granted by the Chief of the Fire Department under Section 29.02(b) or 29.02(c) of the Boston Fire Prevention Code for the placement of approved metal rubbish containers movable only with mechanical assistance shall be eighteen (\$18.00) dollars for each container annually. (Ord. 1985 c. 4 § 64; Ord. 1997 c. 2 § 50; Ord. 2011 c. 6)

21. *Rubbish Containers, Fee for Permit to Maintain.* The fee for a permit granted by the Chief of the Fire Department under Section 29.02(a) of the Boston Fire Prevention Code to store or handle for a period in excess of twenty-four (24) hours, combustible rubbish on a premises in an amount in excess of three (3) cubic yards shall be forty-five (\$45.00) dollars per month for the first three (3) months or five hundred twenty-five (\$525.00) dollars per year. (Ord. 1985 c. 4 § 64; Ord. 1997 c. 2 § 51; Ord. 2011 c. 6)

18-1.19 "S" Fees and Charges.

1. *Sailboat; Rental Of.* The fee to be charged by the Parks and Recreation Commission for the rental of a sailboat shall be, in the case of a person not resident in the City, four (\$4.00) dollars for each hour of use or fraction thereof, and, in the case of a resident in the City, two (\$2.00) dollars for each hour of use or fraction thereof. (Ord. 1976 c. 11; Ord. 1982 c. 5)

2. *Sale of Article.* Except as otherwise expressly provided in this section, the charge to be paid a Board or Officer for furnishing an article in the exercise of the powers, or the performance of the duties, of such Board or Officer shall be such sum as such Board or Officer shall determine approximates the cost of furnishing such article. (Ord. 1976 c. 11)

2A. *Sandblasting Permit.* The fee for an application to the Environment Department of the City of Boston pursuant to Section 31C of Chapter 111 of the General Laws, for a permit to sandblast within the jurisdiction of the City of Boston shall be twenty-five (\$25.00) dollars. Said Department shall have sole discretion to determine whether the work is in accordance with regulations for the control of

atmospheric pollution and to approve or to deny said application. (Ord. 1990 c. 5, Ch. 5 § 2)

2B. *Saturday Work Permit.* The fee of the Commissioner of Inspectional Services for receiving an application for a permit under City of Boston Code, Ordinances, Chapter XVI, subsection 16-26.4 to construct, reconstruct, alter, repair, or demolish a building or structure on a Saturday shall be one hundred (\$100.00) dollars. The applicant shall furnish any information and documentation required by said Commissioner in conjunction with said application. (Ord. 1990 c. 5, Ch. 7 § 18)

3. *Sausages and Chopped Meat; License to Manufacture.* The fee for an annual license granted by the Board of Health and Hospitals pursuant to Section 144 of Chapter 94 of the General Laws to carry on an establishment for the manufacture of sausages and chopped meat, or either, shall be one hundred (\$100.00) dollars. (Ord. 1976 c. 11)

4. *Secondhand Dealer's License.* The fee for an annual license to be a dealer in, or keeper of a shop for the purchase, sale or barter of secondhand articles granted by the Police Commissioner under subsection 17-4.1 shall be one hundred fifty (\$150.00) dollars. (Ord. 1976 c. 11; Ord. 1985 c. 4 § 65)

5. *Secondhand Motor Vehicles.* The fee for used car dealer's licenses, agent's or seller's licenses and motor vehicle junk licenses granted by the Police Commissioner under Section 59 of Chapter 140 of the General Laws shall be respectively fixed by the Police Commissioner under said Section 59. (Ord. 1976 c. 11)

6. *Sewer Entrance Permit.* The fee for a permit granted by the Commissioner of Public Works under subsection 11-6.10 to enter a particular drain into a public sewer shall be, in the case of said drain being connected from a residential premises of six (6) or less units, fifty (\$50.00) dollars; in the case of said drain being connected from commercial or industrial premises or residential premises of seven (7) or more units, one hundred (\$100.00) dollars. (Ord. 1976 c. 11)

6A. *Sheet Metal Work Permit.* The fee of the Commissioner of Inspectional Services for a permit

under 271 Code of Massachusetts Regulations Section 9.01(2) to install, alter or repair sheet metal work in any construction, or as defined in 271 Code of Massachusetts Regulations Section 2 which includes PVC or CPVC, shall be a primary fee of twenty (\$20.00) dollars, plus a fee of twenty-five (\$25.00) dollars for up to the first two hundred (200) linear or square feet of sheet metal work and twenty-five (\$25.00) dollars for each additional two hundred (200) linear or square feet of sheet metal work.
(Ord. 2011 c. 1)

7. *Shellfish Permits.* The fee for an annual family-use shellfish permit shall be fifteen (\$15.00) dollars and the fee for a commercial use shellfish permit shall be sixty (\$60.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 16)

8. *Sidewalk Crossing Permit.* The fee for an annual permit to drive a motor vehicle upon or across a sidewalk at a specified location granted by the Commissioner of Public Works, or in the case of sidewalks under control of the Parks and Recreation Commission, shall be one hundred (\$100.00) dollars provided that there shall be no permit required for the crossing of a sidewalk for a nonbusiness purpose, or for the delivery of fuel or removal of refuse, when such is done agreeably to regulations of the Commissioner, or the Commission, and such crossing shall constitute the assumption of all risks connected therewith and an agreement to hold, defend, save harmless and indemnify the City from any claim of any person whatsoever arising out of such crossing.
(Ord. 1976 c. 11; Ord. 1982 c. 5)

9. *Sight-Seeing Automobiles.* The fee for a license granted by the Police Commissioner under Section 3 of Chapter 399 of the Acts of 1931 for a sight-seeing automobile shall be ten (\$10.00) dollars for each commercial seating accommodation.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 66)

10. *Sight-Seeing Automobile Drivers.* The fee for a sight-seeing automobile driver's license granted by the Police Commissioner under Section 3 of Chapter 399 of the Acts of 1931 shall be thirty (\$30.00) dollars.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 67)

11. *Smoke Detection Devices; Inspection of.* The fee of the Commissioner of Inspectional Services for the inspection of electrical smoke detection devices

shall be a primary fee of twenty (\$20.00) dollars and an additional fee of one (\$1.00) dollar for each detection device inspected; provided, however, that in cases in which the inspection of electrical wiring and fixtures is conducted under subsection 18-1.5, 2, at the same time electrical smoke detection devices are inspected, only the primary fee of twenty (\$20.00) dollars shall be assessed.

(New; Ord. 1981 c. 28; Ord. 2010 c. 5)

12. *Smoke and Carbon Monoxide Detection Systems, Inspections of.* The fee for an inspection performed at the direction of the Chief of the Fire Department under Massachusetts General Laws, Chapter 148, Section 26F and Section 26F-1/2 et seq., shall be fifty (\$50.00) dollars for a single-family dwelling or a single dwelling unit, one hundred (\$100.00) dollars for a two-family dwelling, one hundred fifty (\$150.00) dollars for any building or structure with six (6) or fewer residential units, and five hundred (\$500.00) dollars for any building or structure with more than six (6) residential units. If a reinspection is necessary, the fee shall be fifty (\$50.00) dollars for a single-family dwelling or a single dwelling unit, one hundred (\$100.00) dollars for a two-family dwelling, one hundred fifty (\$150.00) dollars for any building or structure with six (6) or fewer residential units, and five hundred (\$500.00) dollars for any building or structure with more than six (6) residential units.
(Ord. 1985 c. 4 § 68; Ord. 1990 c. 5, Ch. 6 § 26; Ord. 1997 c. 2 § 52; Ord. 2006 c. 2 § 1)

13. *Sound Trucks.* The fee for an itinerant musician's license granted by the Police Commissioner under subsection 16-12.24 for a sound truck engaged in advertising goods, wares, or merchandise for sale shall be five (\$5.00) dollars for each day for which such license is granted.
(Ord. 1976 c. 11)

14. *Special Police Officers.* The fee of the Police Commissioner for appointing a person a special police officer under Chapter 282 of the Acts of 1898 shall be one hundred (\$100.00) dollars.
(Ord. 1976 c. 11; Ord. 1985 c. 4 § 69)

15. *Sporting License.* The fee for a sporting license issued by the City Clerk under Chapter 131 of the General Laws shall be as prescribed by Section 8 of said Chapter 131.
(Ord. 1976 c. 11)

16. *Sprinkler System; Inspection of.* See "Fire Suppression System, Testing and Inspection of," subsection 18-1.6, 23.

17. *Sprinkler System, Permit for Disconnection of.* The fee for a permit granted by the Head of the Fire Department under Section 27A of Chapter 148 of the General Laws shall be ninety (\$90.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1997 c. 2 § 53; Ord. 2011 c. 6)

18. *Sprinkler System; Permit for Installation, Alteration, or Repair of.* See "Fire Suppression System, Permit for Installation, Alteration or Repair Of," subsection 18-1.6, 24.

19. *Stables.* The fee for a license to occupy or use a building for a stable granted by the Board of Health and Hospitals under Chapter 89 of the Acts of 1889 shall be one hundred twenty-five (\$125.00) dollars. (Ord. 1976 c. 11; Ord. 1981 c. 34)

20. *Stallion Registration.* The fee of the City Clerk for recording under Section 176 of Chapter 140 of the General Laws the certificate for a stallion kept for breeding purposes shall be one (\$1.00) dollar. (Ord. 1976 c. 11)

21. *Standpipe Disconnection.* See "Sprinkler System Disconnection."

22. *Starch Mill; Permit to Operate.* The fee for a permit granted by the Chief of the Fire Department under Section 10.03 of the Boston Fire Prevention Code to operate a starch mill shall be five hundred twenty-five (\$525.00) dollars annually. (Ord. 1976 c. 11; Ord. 1985 c. 4 § 70; Ord. 1997 c. 2 § 54; Ord. 2011 c. 6)

23. *Street Occupancy Permit for Advertising Vehicle.* The fee for a permit granted by the Commissioner of Public Works for a person to operate in the streets north and east of Massachusetts Avenue, or any of them, a vehicle used principally for advertising shall be one hundred (\$100.00) dollars for each day for which such permit is granted. (Ord. 1976 c. 11; Ord. 1982 c. 5)

24. *Street or Parkway Occupancy Permit for Advertising by Placard.* The fee for a permit for a person, while on foot in a street, parkway, or other

way under the control of the Parks and Recreation Commission, to carry and display one or more show cards, placards, or signs for the purpose of advertising goods, wares, or merchandise for sale shall be ten (\$10.00) dollars except that in cases where such a permit is granted for a period longer than one month, the fee therefor shall be ten (\$10.00) dollars for each monthly period for which it is granted. (Ord. 1976 c. 11; Ord. 1982 c. 5)

25. *Street or Parkway Opening Permit.* The fee for a permit granted by the Commissioner of Public Works under City of Boston Code, Ordinances, Chapter XI, subsections 11-6.9 and 11-6.10, to open a street, parkway or other way including emergency street opening permits, under the control of said Commissioner or of the Parks and Recreation Commission, or any portion thereof, shall be one hundred ten (\$110.00) dollars or twenty-five (\$.25) cents per square foot, whichever is greater. The fee for an extension of an existing permit granted at the discretion of and for a length of time determined by the Commissioner shall be eighty (\$80.00) dollars. (Ord. 1976 c. 11; Ord. 1982 c. 5; Ord. 1990 c. 5, Ch. 8 § 1; Ord. 2011 c. 3)

25A. *Subdivision Permit.* The fee of the Commissioner of Inspectional Services for a permit to subdivide a parcel of property into two (2) or more parcels shall be one hundred (\$100.00) dollars for each parcel thus created. If two (2) or more parcels are consolidated into one (1) parcel, the fee shall be one hundred (\$100.00) dollars for each parcel thus created. (Ord. 1990 c. 5, Ch. 7 § 19)

26. *Sunday Entertainment License.*

a. The fee for a license granted by the Mayor under Section 4 of Chapter 136 of the General Laws for dancing on a Sunday or for a game, sport, fair, exposition, play, entertainment, or public diversion on a Sunday shall be a primary fee of twenty-five (\$25.00) dollars; and if a payment or collection of money or other valuable consideration is made for the privilege of being present thereat or engaging therein and the licensee or a predecessor of the licensee has previously in this City on a Sunday offered to view, set up, establish, or maintain similar dancing or a similar game, sport, fair, exposition, play, entertainment, or public diversion, an additional fee of fifteen (\$15.00) dollars for each thousand (1,000) of

the average Sunday paid attendance during the last such dance, game, sport, fair, exposition, play, entertainment, or public diversion so offered to view, set up, established, or maintained; provided, however, that:

(1) In cases where the license is for a bowling alley or for billiard, pool, or sippio tables, the fee shall be five (\$5.00) dollars;

(2) In cases where the license is solely for entertainment provided by not exceeding four (4) instrumentalists on premises where there is no admission or cover charge, the fee shall be five (\$5.00) dollars;

(3) In cases where the license is solely for entertainment through the use of television, radio, and music provided by mechanical or electrical means, or any of them, on premises where there is no admission or cover charge, the fee shall be two (\$2.00) dollars;

(4) In cases where the license is for dancing at a wedding or celebration of a religious custom or ritual, there shall be no charge; and

(5) In cases where the license is for a game, sport, fair, exposition, play, entertainment, or public diversion conducted under the auspices of a religious society for a religious or charitable purpose in a place of worship or a hall used in connection therewith, there shall be no fee.

b. The fee for an annual license granted by the Mayor under said Section 4 shall be:

(1) In the case of a license for dancing, two hundred (\$200.00) dollars;

(2) In the case of a license to offer to view motion pictures, two hundred (\$200.00) dollars, providing, however, in the case where there is no fee or cover charge to view motion pictures there shall be no fee;

(3) In the case of a license for entertainment solely through the use of television, radio, and music provided by mechanical or electrical means, or any of them, sixty (\$60.00) dollars; and

(4) In the case of a license for a bowling alley or billiard, pool, or sippio tables, a primary fee of ten (\$10.00) dollars and an additional fee of five (\$5.00) for each alley, bed, or table.

c. The fees fixed by this paragraph shall be in addition to any sum payable to the State Commissioner of Public Safety.

(Ord. 1976 c. 11, c 18; Ord. 1977 c. 2)

27. *Sunday Work Permit.* The fee for a permit granted by the Police Commissioner or his designee under Section 7 of Chapter 136 of the General Laws for the performance on a Sunday, or a legal holiday to which Sections 5 to 11, inclusive, of said Chapter 136 apply, of necessary work or labor which could not be performed on any other day without serious suffering, loss, damage, public inconvenience, or delay to military defense work shall be five (\$5.00) dollars. (Ord. 1976 c. 11)

28. *Swimming or Wading Pool, Public or Semi-Public.* The fee for a permit granted by the Board of Health and Hospitals under the State Sanitary Code for the operation of a public or semi-public swimming or wading pool shall be, in the case of a permanent year-round operation, two hundred (\$200.00) dollars; and in the case of a permit for summer seasonal operation, one hundred (\$100.00) dollars.

The fee for a permit under subsection 9-9.10 shall be one hundred (\$100.00) dollars, except, when in the Commissioner's opinion a departmental inspection is required, the fee shall be two hundred (\$200.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 34; Ord. 1989 c. 11 § 2; Ord. 1990 c. 5, Ch. 7 § 20; Ord. 1995 c. 8 § 10)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

18-1.20 "T" Fees and Charges.

1. *Tank Vehicle; Inspection Of.* The fee to be charged by the Chief of the Fire Department for inspecting any tank vehicle used for the transportation of Class A or Class B flammable liquids shall be one hundred sixty-five (\$165.00) dollars for each biennial inspection provided, however, should additional inspection be required the fee for each additional inspection shall be ninety (\$90.00) dollars.

(Ord. 1976 c. 11; Ord. 1985 c. 4 § 72; Ord. 1997 c. 2 § 55; Ord. 2011 c. 6)

1A. *Tank, Underground, Inspection Of.* The charge to be paid for each inspection by the Boston Fire Department of the installation of a new or replacement underground tank pursuant to 527 CMR 9.10 shall be seventy (\$70.00) dollars for each tank up to a maximum of three hundred fifteen (\$315.00) dollars per location.
(Ord. 1990 c. 5, Ch. 6 § 27; Ord. 1997 c. 2 § 56; Ord. 2011 c. 6)

1B. *Tank, Underground, Inspection of Piping.* The charge to be paid for each inspection by the Boston Fire Department of the installation of new or replacement piping pursuant to 527 CMR 9.10 shall be forty (\$40.00) dollars for each tank up to a maximum of two hundred (\$200.00) dollars per location.
(Ord. 1990 c. 5, Ch. 6 § 27; Ord. 1997 c. 2 § 57; Ord. 2011 c. 6)

2. *Target Practice Range License.* The fee for a target practice range license granted by the City Council under subsection 16-5.1 shall be one hundred (\$100.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 26)

3. *Taxes.* See "Assessor's Certificate," also "Municipal Lien Certificate," also "Real Estate Tax Payment Certificate."

4. *Taxicab Licenses.* See "Hackney Carriage Licenses."

5. *Temporary Food Service Establishment; Permit For.* The fee for a permit granted by the Board of Health and Hospitals under the State Sanitary Code for the operation of a temporary food service establishment shall be: thirty (\$30.00) dollars for the first day or portion thereof in any one period consisting of consecutive days, and five (\$5.00) dollars for every additional day within the same time period.
(Ord. 1981 c. 34; Ord. 2007 c. 9)

6. *Tire Recapping Plant Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 2.02 of the Boston Fire Prevention Code to conduct and maintain a tire recapping or rebuilding plant shall be five hundred seventy-five (\$575.00) dollars annually.
(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 73; Ord. 1990 c. 5 Ch. 6 § 28; Ord. 1997 c. 2 § 58; Ord. 2011 c. 6)

6A. *Tire Salvage or Shredding Yard.* The fee for a permit granted by the Chief of the Fire Department under Section 3.02 of the Boston Fire Prevention Code to conduct or maintain a tire salvage or shredding yard shall be five hundred seventy-five (\$575.00) dollars annually.
(Ord. 1990 c. 5, Ch. 6, § 29; Ord. 1997 c. 2 § 59; Ord. 2011 c. 6)

7. *Torch in Open Air.* See "Fire (Small or Torch) in Open Air."

8. *Trailer Coach Park License.* The fee for a trailer coach park license granted by the Board of Health and Hospitals under Section 32B of Chapter 140 of the General Laws shall be, in the case of an original license, two hundred fifty (\$250.00) dollars, plus the cost of the notice of hearing, and, in the case of a renewal license, one hundred (\$100.00) dollars. The fee provided in the preceding sentence shall be in addition to the additional license fee, granted by the Board of Health and Hospitals under Section 32G of Chapter 140 of the General Laws, which shall be twelve (\$12.00) dollars per trailer. The City Clerk shall receive no fee for receiving and filing any copy of a trailer coach park license sent him by the Board of Health and Hospitals pursuant to Section 32F of said Chapter 140.
(Ord. 1981 c. 34)

9. *Transient Vendor's License.* The fee for a license issued to a transient vendor by the City Clerk under Section 5 of Chapter 101 of the General Laws shall be an amount equal to the tax assessable under the tax levy last preceding the issue of such license upon property having a valuation equal to the valuation certified under subsection 17-14.1; provided that the fee for a license so issued to a transient vendor who, in the year in which such license is issued, has been or will be assessed taxes upon his stock in trade by the Commissioner of Assessing shall be twenty (\$20.00) dollars.
(Ord. 1976 c. 11)

10. *Trapping License.* The fee for a trapping license issued by the City Clerk under Chapter 131 of the General Laws shall be as prescribed by Section 11 of said Chapter 131.
(Ord. 1976 c. 11)

10A. *Trenches, Permit to Excavate.* The fee for a permit to excavate a trench as required under Chapter 82A of the General Laws by the Public Improvement Commission and paid to either the Commissioner of Inspectional Services or the Commissioner of Public Works shall be sixty (\$60.00) dollars per application for such permit.
(Ord. 2010 c. 5)

11. *Trust Instruments and Amendments.* The fee of the City Clerk for receiving and filing under Section 2 of Chapter 182 of the General Laws a copy of a written instrument or declaration of trust, or a copy of an amendment thereof, shall be one hundred (\$100.00) dollars.
(Ord. 1997 c. 4, Ch. 2 § 2)

12. *Trust Merged Into Corporation.* The fee of the City Clerk for receiving and filing under Section 46A of Chapter 156 of the General Laws a copy, certified by the Secretary of the Commonwealth, of articles of amendment in connection with the merger of a trust into a corporation or a certificate issued pursuant to Section 46F of said Chapter 156 evidencing the filing of such articles with such Secretary shall be twenty-five (\$25.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 13)

18-1.21 "U" Fees and Charges.

1. *Use and Occupancy; Certificate Of.* The fee for issuing a certificate of use and occupancy pursuant to Section 119.0 of the Commonwealth of Massachusetts State Building Code shall be, in the case of a single, two or three family dwelling ten (\$10.00) dollars, and in the case of all other residential use groups, a primary fee of fifty (\$50.00) dollars, plus an additional fee of twenty-five (\$25.00) dollars for each unit in excess of three (3) units; in the case of places of assembly, fifty (\$50.00) dollars; and for all other use groups, a primary fee of fifty (\$50.00) dollars, plus an additional fee of twenty-five (\$25.00) dollars for each thousand (1,000) square feet of gross area contained in the building or structure for which the certificate is issued.
(New; Ord. 1981 c. 29; Ord. 1995 c. 8 § 11; Ord. 2010 c. 5)

2. *Use Permit.* The fee of the Building Commissioner for issuing a use permit under Section 4-3 of the Boston Zoning Code shall be fifty (\$50.00) dollars.
(Ord. 1981 c. 28)

3. *Used Car Dealer's License.* See "Second Hand Motor Vehicles."

4. *Underground Storage Facility Permit.* The fee for a permit issued by the Head of the Fire Department to maintain an underground storage facility for purpose of storing flammable and combustible liquids shall be one hundred seventy-one (\$171.00) dollars, (fifty-seven (\$57.00) dollars per year for a three-year period) payable at the time of issuance of the permit which permit shall be in addition to any license or any other permit required by M.G.L. Chapter 148 and regulations issued thereunder.
(Ord. 1986 c. 14 § 1; Ord. 1997 c. 2 § 60; Ord. 2011 c. 6)

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

18-1.22 "V" Fees and Charges.

1. *Vessels, Liens On.* The fee of the City Clerk for recording a statement filed under Section 15 of Chapter 255 of the General Laws to enforce a lien on a vessel shall be one (\$1.00) dollar for each page or part thereof, but in no event less than five (\$5.00) dollars.
(Ord. 1976 c. 11)

2. *Voter or Resident Certificate.* The fee of the Board of Election Commissioners for furnishing a certificate as to the appearance of a particular name on an annual register of voters shall be four (\$4.00) dollars for each date specified. The fee received by said Commissioners for furnishing, in the name of the Assessor, a certificate as to the listing of a particular name on the annual listing of residents under Chapter 29 of the Acts of 1917, as amended, shall be four (\$4.00) dollars for each date specified. If the request seeks the Board's minutes of the naturalization of a particular person, the fee shall be five (\$5.00) dollars.
(Ord. 1976 c. 11; Ord. 1981 c. 27; Ord. 1990 c. 5, Ch. 4 § 5)

18-1.23 "W" Fees and Charges.

1. *Wagon and Handcart Licenses.* The fee for an annual license granted by the Police Commissioner

under rules made by him in the exercise of such of the powers arising from Section 22 of Chapter 40 of the General Laws as are vested in him by or under the City Charter shall be five (\$5.00) dollars.

(Ord. 1976 c. 11)

2. *Waste Material Handling Plant Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 3.02 of the Boston Fire Prevention Code to conduct or maintain a waste material handling plant shall be five hundred (\$500.00) dollars annually.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 74; Ord. 1997 c. 2 § 61; Ord. 2011 c. 6)

3. *Water Meter; Examination and Test Of.* The fee of the Commissioner of Public Works for examining and testing a water meter under Section 10 of Chapter 165 of the General Laws shall be ten (\$10.00) dollars.

(Ord. 1976 c. 11)

4. *Weights and Measures; Adjustment Of.* The charge for the repair, alteration, or adjustment of any weight, scale, balance, measure, or measuring device shall be a minimum of twenty (\$20.00) dollars and twenty (\$20.00) dollars for each fifteen (15) minutes or fractions thereafter.

(Ord. 1976 c. 11; Ord. 1981 c. 15; Ord. 1990 c. 5, Ch. 7 § 21; Ord. 2002 c. 3)

5. *Weights and Measures; Sealing Of.* The fee for the sealing of a weight or measure under Sections 41 to 53 inclusive, or any of them, of Chapter 98 of the General Laws shall be:

(a) In the case of a machine or other mechanical device used for determining linear or area measurement, fifteen (\$15.00) dollars; and

(b) In the case of liquid capacity measure (other than a vehicle tank) with a measuring capacity of less than one (1) gallon, one (\$1.00) dollar; with a measuring capacity of one (1) gallon or greater but less than ten (10) gallons, twenty (\$20.00) dollars; and with a measuring capacity of ten (10) gallons or greater, fifty (\$50.00) dollars; and

(c) In the case of a liquid measuring meter (other than those further specified) having an inlet pipe with a diameter of one (1") inch or less, twenty (\$20.00) dollars; and in the case of such a meter having an inlet pipe with a diameter of more than one

(1") inch, but not more than four (4") inches, fifty (\$50.00) dollars; and in the case of such a meter having an inlet pipe with a diameter of more than four (4") inches, one hundred (\$100.00) dollars; and in the case of a vehicle tank meter more than one (1") inch but less than four (4") inches, fifty (\$50.00) dollars; and four (4") inches or greater one hundred (\$100.00) dollars; and in the case of gravity meters, twenty (\$20.00) dollars; in the case of gasoline meters for retail, thirty (\$30.00) dollars; and in the case of oil and grease meters, fifteen (\$15.00) dollars; and

(d) In the case of milk and cream bottles and jars, twenty-five (\$25.00) dollars per gross; and

(e) In the case of a scale or a balance with a weighing capacity of one hundred (100) pounds or less, thirty (\$30.00) dollars, in the case of a scale or balance with a weighing capacity of greater than one hundred (100) pounds, but less than five thousand (5,000) pounds, forty (\$40.00) dollars; and in the case of a scale or balance having a weighing capacity of five thousand (5,000) pounds, or greater but less than ten thousand (10,000) pounds, seventy-five (\$75.00) dollars; and in the case of a scale or balance with a weighing capacity of ten thousand (10,000) pounds or greater, one hundred fifty (\$150.00) dollars; and

(f) In the case of a taximeter or measuring device upon a vehicle to determine the cost of transportation, forty (\$40.00) dollars; and

(g) In the case of vehicle tank used in the sale of a commodity by liquid measure and having a single compartment, and in the case of each compartment of a vehicle tank so used having two (2) or more compartments, a primary fee of seventy-five (\$75.00) dollars, and an additional fee of ten (\$10.00) dollars for each one hundred (100) gallons or fraction thereof of capacity; and

(h) In the case of weights up to and including ten (10) pounds, thirty (\$30.00)/per set dollars; in the case of weights greater than ten (10) pounds, up to and including fifty (50) pounds, twenty (\$20.00) dollars per weight; in the case of weights over fifty (50) pounds, thirty (\$30.00) dollars per weight.

(i) In the case of a machine or other mechanical device used for counting, fifteen (\$15.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 15; Ord. 1982 c. 18, c. 22; Ord. 1990 c. 5, Ch. 7 § 22; Ord. 2002 c. 3; Ord. 2010 c. 5)

6. *Welder's Certificate of Qualification.* The charge of the Building Commissioner for issuing a certificate of qualification as a welder shall be thirty-five (\$35.00) dollars. The applicant for such a certificate shall at his expense furnish a suitable place for his examination, supply all structural steel bar stock and welding wire required therein, and provide for testing completed specimens. A duplicate copy of a welder's certificate of qualification shall be issued at the request of a welder for a reproduction fee of ten (\$10.00) dollars.

(Ord. 1976 c. 11; Ord. 1981 c. 28)

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7. *Woodworking Plant Permit.* The fee for a permit granted by the Chief of the Fire Department under Section 23.01 of the Boston Fire Prevention Code to operate a woodworking plant, whether or not including the storage on the premises thereof in excess of one hundred thousand (100,000) board feet of lumber, shall be four hundred sixty (\$460.00) dollars annually.

(Ord. 1976 c. 11; Ord. 1981 c. 22; Ord. 1985 c. 4 § 75; Ord. 1990 c. 5, Ch. 6 § 30; Ord. 1997 c. 2 § 62)

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional

Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

Failure to provide the information set forth above or the furnishing of inadequate or incorrect information shall result in the fee being computed at the highest amount permissible under the applicable paragraph.

(Ord. 1977 c. 15)

18-3 WHEN CHARGES ARE DUE AND PAYABLE.

Except as otherwise expressly provided by Section 18-1, the entire fee fixed by said section for a permit or license shall be payable at the time of the issuance of such permit or license. The entire fee or charge fixed by Section 18-1 for furnishing an article or the use thereof or the use of a place, and the entire fee or charge so fixed for furnishing a copy or certified copy of a record or paper, and the entire fee or charge so fixed for furnishing service or work shall be payable at the time of application therefor.

(Rev. Ord. 1961 c. 30 § 2; CBC 1975 Ord. T14 § 451)

18-1.24 "X", "Y", "Z" Fees and Charges.

Reserved.

18-2 FEES BASED ON GROSS SALES.

Whenever the amount of fee for any license of permit under Section 18-1 is computed on the basis of gross sales the person seeking such license or fee shall submit to the permit or license granting agency the following information:

a. A certified copy of State or Federal Tax return clearly showing gross sales for the establishment or entity seeking the permit or license; or

b. A sworn statement of gross sales of the premises seeking the permit or license made by a certified public accountant; or

c. A sworn statement made by the owner or authorized representative of the owner of the premises seeking the permit or license setting forth in detail the gross sales for the previous year broken down by source of revenue. The foregoing statement shall set forth in detail the documents and sources from which statement was derived.

18-4 RENEWAL FEES.

Except as otherwise expressly provided in Section 18-1, the fee for the renewal of a license or permit shall equal the fee which would be payable under Section 18-1 for an original license of permit for the same purpose.

(Rev. Ord. 1961 c. 30 § 3; CBC 1975 Ord. T14 § 452)

18-5 EXEMPTIONS FOR PUBLIC OFFICIALS.

No Board, Officer or employee of the City or of the County of Suffolk shall be required to pay any fee for any license or permit required of it or him personally in the performance of its or his official duties; and no such Board, Officer or employee requiring in the performance of its or his official duties any services or work by the City or any Department, Board or Officer thereof, shall be required to pay any charge for such services or work (Ord. 1957 c. 4; Rev. Ord. 1961 c. 30 § 4; CBC 1975 Ord. T14 § 453)

18-6 OTHER EXEMPTIONS.

Nothing in Section 18-1 shall be construed to affect in any way the exemption from a fee or charge for a permit or license provided by Section 6 or Chapter 572 of the Acts of 1949 or by Section 6 of Chapter 669 of the Acts of 1953 or by any similar statute.

(Rev. Ord. 1961 c. 30 § 5; CBC 1975 Ord. T14 § 454)

Cross-references:

St. 1979 c. 572 § 6; St. 1953 c. 669 § 6.

18-7 EXEMPTION FOR BOSTON HOUSING AUTHORITY.

Neither the Boston Housing Authority nor any person acting in its stead shall be charged any fee for any license or permit for which the fee may be fixed by ordinance under Chapter 222 of the Acts of 1949.

(Rev. Ord. 1961 c. 30 § 6; CBC 1975 Ord. T14 § 455)

Cross-references:

St. 1949 c. 222; § 10-1.

18-8 CITY RECORD: ADVERTISING AND SUBSCRIPTION CHARGES.

The charge to be paid by Boards and Officers for the publication of advertisements in the City Record shall be six (\$6.00) dollars for each half of an inch or fraction thereof. The City Record shall be sold on the following terms payable in advance: annual subscription, fifty (\$50.00) dollars; single copy, two (\$2.00) dollars.

(Rev. Ord. 1961 c. 30 § 7; CBC 1975 Ord. T14 § 456; Ord. 1982 c. 8; Ord. 1985 c. 4 § 78; Ord. 1990 c. 5, Ch. 3 § 1)

18-9 ANNUAL SEWER USE CHARGES.

Under authority of Section 16 of Chapter 83 of the General Laws and every other authority hereunto enabling, the annual charge for the use of the common sewers of the City by every estate in the City having one or more particular sewers discharging into such common sewers is hereby established as a primary charge of five (\$5.00) dollars, an additional charge of

one (\$1.00) dollar for every thousand (1,000) cubic feet, in excess of five thousand (5,000) cubic feet, of water supplied by the City to such estate and billed in the calendar year in which the charge established by this section is assessed, and a further charge of one (\$1.00) dollar for every thousand (1,000) cubic feet of water derived or received by such estate from any other source during the period covered by such billing; provided, however, that if water so supplied, derived or received is used on the estate in such a manner as not to enter the common sewers of the City, in determining the charge established by this section the quantity of water so used shall be deducted from the aggregate amount of water so supplied, derived or received during such period; provided further that in no case shall any charge be assessed under this section in excess of a just and equitable charge; and provided also that persons exempt from the payment of water rates and charges, but only such persons, shall be exempt from the charge established by this section.

The quantity of water supplied by the City through a water meter in good working order shall be determined by the readings of such meter. The quantity of all other water shall be estimated by the Commissioner of Public Works by any reasonable and equitable method apt in the circumstances of the particular case to determine the quantity of water discharged through the particular sewer or sewers of the estate into the common sewers of the City; provided, however, in the case of water not supplied by the City but derived or received by an estate from another source, and also in the case of water used on an estate in such a manner as not to enter the common sewers of the City, that if such water is measured by one or more water meters in good working order installed and maintained on the estate by the Commissioner of Public Works at the request and expense of the owner or tenant of such estate, the quantity of water so derived or received, or the quantity of water so used, or both, as the case may be, shall be determined by the readings of such meter or meters. Water supplied by the City or any other source exclusively for fire pipe purposes shall not be included in determining the charge established by this section.

During the last three (3) months of every calendar year, the Commissioner of Public Works shall assess upon every estate in the City having a particular sewer discharging into the common sewers of the City the

charge established by this section, and in January of the next following calendar year certify to the Commissioner of Assessing a list of such charges. Said Commissioner shall in his order of assessment designate as the owner of a parcel assessed the person who was liable to assessment therefor on the preceding January first under the provisions of Chapter 59 of the General Laws.

(Ord. 1961 c. 11; Ord. 1962 c. 13; Ord. 1962 c. 14; Rev. Ord. 1961 (Sup. 1971) c. 30 § 8; CBC 1975 Ord. T14 § 457)

Cross-references:

G.L. 59; G.L. 83 § 16; ss 11-6.1.

Editor's Note:

The water works system and the sewer works system of the Department of Public Works were abolished and the duties transferred to the Boston Water and Sewer Commission by Ch. 436 of the Acts of 1977.

18-10 PUBLIC TELEPHONES.

The Public Improvement Commission be and it hereby is authorized from time to time to enter into agreements with the New England Telephone and Telegraph Company providing for the installation of public telephone booths on various public sidewalks in the City of Boston and providing further for the payment to the City of Boston by the New England Telephone and Telegraph Company of commissions established in accordance with the regulations and standard rates of commission from to time adopted by the Company.

(Ord. 1964 c. 1; Rev. Ord. 1961 (Sup. 1971) c. 30 § 9; CBC 1975 Ord. T14 § 458)

Cross-reference:

Section 8-7.

18-11 FEE FOR AUGMENTED FIRE SERVICE.

Editor's Note:

This section shall be read against Emerson College vs. City of Boston et al, 391 Mass. 415 which held the provisions of said section invalid.

18-11.1 Definitions.

In this section, the following words and phrases shall have the meanings given in the following clauses:

a. *Augmented Fire Services Availability (AFSA)* shall mean the capacity to deliver a total fire flow in excess of three thousand five hundred (3,500) gallons per minute.

b. *Total Fire Flow (TFF)* shall mean the total fire fighting capacity, expressed in gallons per minute, necessary to extinguish a fully involved fire in any given structure, taking into account fire suppression and detection equipment and life risk as provided herein. Total fire flow shall be determined by the Fire Commissioner according to the following formula:

$$TFF = (NFF) \times (1-S) \times (LRF).$$

c. *Needed Fire Flow (NFF)* shall mean a factor, expressed in gallons per minute, to be determined by the Fire Commissioner, taking into account a construction type factor, an effective area factor, a use factor, an exposure factor, and a connecting passageways factor.

d. *Suppression Credit(s)* shall mean a credit determined by the Fire Commissioner to be used in determining total fireflow, taking into account the existence of fire suppression and detection equipment in a structure.

e. *Life Risk Factor (LRF)* shall mean a factor, to be determined by the Fire Commissioner, taking into account density of occupancy, hours of occupancy, number of stories, and the existence of smoke removal equipment.

(Ord. 1982 c. 7, c. 12; Ord. 1983 c. 6)

18-11.2 Charges Determined by Fire Commissioner.

Prior to October first of each year the Fire Commissioner shall determine which structures in the City are being provided augmented fire services availability. On or before October first of each year, the owners of all such structures being provided augmented fire services availability shall be charged a fee by the Fire Commissioner, to be determined by said Fire Commissioner as provided in this section, for

the provision of augmented fire services availability. Said fee shall be based on the cost of providing augmented fire services availability and shall be due and payable in two (2) equal installments; the first installment due and payable no later than December first of the year in which the charge is made, and the second installment due and payable no later than June first of the following year. The Fire Commissioner shall designate as the owner of the parcel charged the person or entity who was liable to assessment therefor on the preceding January first under the provisions of Chapter 59 of the General Laws. In the case of a condominium, as defined by Section 1 of Chapter 183A of the General Laws, the Fire Commissioner shall designate as the owner of the parcel charged the person, corporation, trust, association or other entity designated on the master deed or any amendments thereto pursuant to Section 8(i) of Chapter 183A of the General Laws.

(Ord. 1982 c. 7, c. 12; Ord. 1983 c. 6)

18-11.3 Appeal of Charge.

Upon payment of the first installment of the fee, the person or entity paying such fee may appeal the correctness of such fee by filing a notice of appeal with the Fire Commissioner on or before December first. Upon receiving a notice of appeal the Fire Commissioner shall schedule a hearing and shall notify the person or entity appealing of the date of the hearing. The person or entity who filed the appeal shall be entitled to appear at the hearing and present evidence challenging the correctness of the fee charged. The Fire Commissioner or his designee shall preside at said hearing, shall render a decision affirming the correctness of the charge or correcting said charge, and shall so notify the person or entity who filed the appeal.

(Ord. 1982 c. 7, c. 12; Ord. 1983 c. 6)

18-11.4 Sending of Revised Bill.

Upon the determination of an appeal, the Fire Commissioner shall inform the Collector-Treasurer of cases in which the corrected fee is greater than or less than the original charge. The Collector-Treasurer shall issue a revised bill or abatement notice, as appropriate, reflecting the corrected fee, and refunding the difference, if any, between the corrected fee and the amount already paid, plus interest of eight (8%) percent per annum from the date of payment.

The filing of an appeal and the pendency of any proceedings pursuant thereto shall not operate to stay the payment of any fee as otherwise provided in this section.

(Ord. 1982 c. 7, c. 12; Ord. 1983 c. 6)

18-11.5 Estimated Fee.

The Fire Commissioner may estimate the fee to be paid for a particular structure. In such cases, the estimated fee shall be charged to the owner of a structure subject to such fee on or before October first, and shall be due and payable in two (2) equal installments as hereinbefore provided. The Fire Commissioner shall determine the final fee on or before February first of the fiscal year in which the fee is charged. The Collector-Treasurer shall issue a revised bill or abatement notice, as appropriate, reflecting the final fee, and, if no appeal is pending, shall refund the difference, if any, between the final fee and the amount already paid, plus interest of eight (8%) percent per annum from the date of payment. The person or entity paying such fee may appeal the correctness of the final fee by filing a notice of appeal with the Fire Commissioner on or before March first of the fiscal year in which the fee was charged. Said appeal shall be decided as hereinbefore provided.

Notwithstanding any provisions of this section to the contrary, for the fiscal year beginning July 1, 1982 and ending June 30, 1983, the fee provided for in this section shall be assessed as follows:

On or before March 1, 1983, the Fire Commissioner shall determine and assess said fee. The first installment of said fee shall be due and payable no later than April 1, 1983. The second installment of said fee shall be due and payable on June 30, 1983.

The person or entity paying such fee may appeal the correctness of the fee as hereinbefore provided on or before March 31, 1983. Appeals shall be decided, and a revised bill or abatement reflecting the corrected fee, and refunds, where appropriate, shall be issued as otherwise provided in this section.

Fees that remain unpaid shall constitute accounts owed to the City and shall be collected by the Collector-Treasurer in accordance with applicable laws.

(Ord. 1982 c. 7, c. 12; Ord. 1983 c. 6)

18-11.6 Rules and Regulations.

The Fire Commissioner may promulgate rules and regulations for the administration of this section. (Ord. 1982 c. 7, c. 12; Ord. 1983 c. 6)

Department, may receive reimbursement of the fee paid to the extent approved by the Commissioner. (Ord. 1995 c. 8 § 12)

18-11.7 Exceptions.

Notwithstanding any provisions of this ordinance to the contrary, the owner of a structure being provided augmented fire services availability shall not be required to pay that proportion of the fee charged for augmented fire services availability attributable to portions of said structure owned by said owner and rented as residential units to persons or families living independently of each other, and in which kitchen facilities are provided in each individual unit, or common areas of said structures, including parking, accessory to said residential units only. (Ord. c. 1982 c. 7, c. 12; Ord. 1983 c. 6)

18-11.8 Administration of This Section.

Notwithstanding any provision of this section to the contrary, and pursuant to Chapter 190 of the General Laws, as amended, administration of the Augmented Fire Services Availability program shall be uniformed Fire Department personnel only, and funds shall be allocated for this purpose. (Ord. 1983 c. 21)

18-11.9 Severability.

The provisions of this section are severable and if any of its provisions shall be held invalid in any circumstances, such invalidity shall not effect any other provisions or circumstances. (Ord. 1982 c. 7, c. 12; Ord. 1983 c. 6, c. 21)

**18-12 INSPECTIONAL SERVICES
DEPARTMENT PERMIT FEE
REFUNDS.**

Any applicant seeking a refund for any permit fee, other than a building and demolition permit fee, in cases both where the permit was denied by the Inspectional Services Department or where the permit was issued in error by the Inspectional Services

CHAPTER XIX

SCHOOLS

19-1 SCHOOL DEPARTMENT.

19-1.1 Possession, Detection, of Weapons in Schoolhouses.

No person other than a sworn officer of the Commonwealth, a member of the military service on active duty, or a constable, officer or official of the City or County having a license to carry firearms shall in any schoolhouse have possession of any dangerous weapon, which term shall include any firearm, and any item described in paragraphs (b) or (c) of Section 10 of Chapter 269 of the General Laws, unless authorized by the Superintendent of Schools or the Superintendent's designee. If the Superintendent shall determine public safety requires, a system for detection of weapons may be established in any schoolhouse and no person shall be admitted to, or enter, a schoolhouse without submitting to such detection system. Any person violating the provisions hereof shall be punished by a fine of two hundred (\$200.00) dollars.

(Ord. 1992 c. 3 § 1)

19-1.2 Monthly Report on Incidents.

The School Committee shall prepare and furnish, each month to the Mayor and City Council, a report on the number of incidents reported in the schools of the City by the Boston School Police during the previous month, tabulated by school zone, and providing, in addition to the school zone, the geographical area of the City comprising the school zone. The School Committee shall, in preparing each report, also include the cumulative totals of the incidents enumerated above, tabulated as aforesaid, for the year to date of making the report.

(Ord. 1994 c. 3)

19-1.3 School Bus Safety.

a. Every school bus regularly employed in the transportation of children to schools in the City shall be equipped with and use when accepting and discharging passengers a crossing gate, so called, which shall extend out in front of the school bus. This section shall not apply to those vehicles owned or leased by the Massachusetts Bay Transportation Authority.

b. This section shall apply to all school buses purchased on or after July 1, 1999.

(Ord. 2000 c. 2)

19-2 SALARY OF SCHOOL COMMITTEE MEMBERS.

Effective January 1, 1987, all members of the Boston School Committee be paid an annual stipend of seven thousand, five hundred (\$7,500.00) dollars.

(Ord. 1986, c. 23 § 4 [500])

19-3 PUBLIC SCHOOL INFRASTRUCTURE ANNUAL AUDITING.

19-3.1 Report by Boston Public School Department.

a. The Boston Public School Department, or its successor, shall prepare a report detailing the repairs, renovations, and/or upgrades necessary to ensure, protect, and/or improve the condition of each and every school building.

b. The report shall include the actual and/or estimated costs of each repair, renovation, and/or upgrade. The report shall also identify:

1. The total amount allocated in the then-current year's budget for school repairs, renovations, and/or upgrades;

2. The total amount actually spent on school repairs, renovations, and/or upgrades for the then-current school year as of the date of the report; and

3. The amount estimated to be spent on school repairs, renovations, and/or upgrades by the close of the then-current school year.

c. On or before March 1 of each year, the Boston Public School Department shall submit the report to the Clerk for the City of Boston who shall assign the document a docket number for the next regular meeting of the Boston City Council. The appropriate committee of the Boston City Council shall study the report and shall convene a public hearing on the matter within four (4) weeks.
(Ord. 2006 c. 10 § 1)

19-3.2 Report by Healthy Schools Task Force.

a. The Healthy Schools Task Force, or its successor, shall prepare a report detailing the environment audit of each and every school building. The report shall include whether repairs were indicated as necessary, whether such repairs were completed, the actual cost of such repairs actually completed, and the estimated cost of repairs not actually completed.

b. On or before March 1 of each year, the Healthy Schools Task Force shall submit the report to the Clerk for the City of Boston who shall assign the document a docket number for the next regular meeting of the Boston City Council. The appropriate committee of the Boston City Council shall study the report and shall convene a public hearing on the matter within four (4) weeks.
(Ord. 2006 c. 10 § 1)

CHAPTER XX

CHARITABLE INSTITUTIONS

20-1 GEORGE ROBERT WHITE FUND.

No Ordinances Apply. See Special Statutes.
(CBC 1975 St. T16 c. 1)

20-2 FRANKLIN INSTITUTE OF BOSTON.

No Ordinances Apply. See Special Statutes.
(CBC 1975 St. T16 c. 3)

20-3 OLD SOUTH ASSOCIATION.

No Ordinances Apply. See Special Statutes.
(CBC 1975 St. T16 c. 5)

20-4 CHARITABLE DONATIONS FOR INHABITANTS OF BOSTON.

No Ordinances Apply. See Special Statutes.
(CBC 1975 St. T16 c. 7)

20-5 EDWARD INGERSOLL BROWNE COMMISSION.

20-5.1 Board; Appointment; Compensation.

In order to facilitate the achievement of the goals of Edward Ingersoll Browne as recited in clause sixth of a certain will of the said Edward Ingersoll Browne proved October 3, 1901, and to act as the sole and exclusive agent of the City in expending any monies available or made available under that will, there shall be in the City a Board, to be known as the Edward Ingersoll Browne Commission, consisting of the Mayor, that member of the City Council for the

time being the senior member in time of service, or, in the event that two (2) or more members have equal service, the senior of those in age, and the Collector-Treasurer. All Commissioners shall serve ex officio and without additional compensation. The Mayor shall be chairman.

(Ord. 1975 c. 5 § 1; CBC 1975 Ord. T16 § 300)

20-5.2 Powers and Duties of Commission.

The provisions of Section 10 of Chapter 25 of the Revised Ordinances of 1961 (Ord. Subsection 6-3.11) to the contrary notwithstanding, the said Commission shall prudently manage, invest, and reinvest the funds bequeathed to the City under said will, together with such other sums as the Mayor and City Council may make available to it, and shall expend the same in a manner agreeable to the said will, or agreeable to the provisions of any order making monies available to said Commission, but no such funds shall be expended except upon appropriation lawfully made after consultation with a committee consisting of the following: one member appointed by the Mayor from two (2) nominees of the Boston Society of Landscape Architects, one member appointed by the Mayor from two (2) nominees of the Art Commission, the Park Commissioner, and the Public Works Commissioner, or their respective designees, all of whom shall serve without further compensation, and those appointed by the Mayor shall serve at the pleasure of their nominating body.

(Ord. 1975 c. 5 § 2; CBC 1975 Ord. T16 § 301)

20-5.3 Investment Counsel.

The said Commission shall annually elect a firm or individual having not less than twenty (20) years experience in the administration and investment of trust funds to serve as investment counsel and fund manager for such compensation as the Commission

shall determine. The Commission may require said individual or firm to give bond for faithful performance of his or its duties, and for such other purposes as the Commission may require, in an amount agreeable to the said Commission. Said firm or individual and those members of the said Committee appointed by the Mayor shall be deemed to be special municipal employees for the purposes of Chapter 268A of the General Laws, but this subsection shall not be deemed a waiver of the notice requirements of Section 8 of Chapter 486 of the Acts of 1909, as amended.

(Ord. 1975 c. 5 § 3; CBC 1975 Ord. T16 § 302)

20-5.4 Meetings; Report.

The said Commission shall meet at least quarterly on the first Wednesday or Thursday of January, April, July, and October, at which meeting the firm or individual elected as investment counsel and fund manager shall furnish a report in writing, setting forth the current condition of the fund and any recommendations relative to the investment of the fund in the three (3) months next following, together with the reasons for such recommendation. The said Commission shall, annually in January, submit to the Mayor and City Council a report of its doings in the then previous year, together with an audited statement of the funds then in its control, and its estimate of the amount of money that will be available for expenditure in the then current year.

(Ord. 1975 c. 5 § 4; CBC 1975 Ord. T16 § 303)

20-5.5 Expenditure of Funds.

Notwithstanding any provision of law or ordinance to the contrary, and notwithstanding the requirement of appropriation:

a. This ordinance shall be published by the action of the City Council in passing the same.

b. With the approval of the Mayor and City Council the said Commission may, for the purpose of matching Federal, State, or private grants, grants-in-aid, gifts, or bequests, obligate the expenditure of funds under its control for purposes agreeable to the aforesaid Browne will and/or to the terms of said grant, grant-in-aid, gift, or bequest, whether or not the same is to be spent within the then current municipal or fiscal year.

c. The said Commission may hold, and continue to hold, any security tendered to it, if in the opinion of the said Commission such holding would be of benefit to the fund.

(Ord. 1975 c. 5 § 5; CBC 1975 Ord. T16 § 304)

20-6 BOSTON GROUND WATER TRUST.

20-6.1 Established.

There shall be established in the City of Boston, by the Collector/ Treasurer, the "Boston Ground Water Trust", which trust shall be established in the form, and manner of the attached Declaration of Trust; and that, subject to the approval of the City Council and Mayor, the Boston Ground Water Trust be and hereby is authorized to accept and expend any and all funds contributed to it consistent with the purposes of the Declaration of Trust attached hereto and filed herewith.

(Ord. 1986 c. 11 § 1 [400])

Editor's Note:

A copy of the "Declaration of Trust" shall be kept on file in the Office of the Boston City Clerk, and shall be available for public inspection.

CHAPTER XXI

MISCELLANEOUS PUBLIC BUILDINGS

21-1 BOSTON CITY HALL AND THE BOSTON GOVERNMENT CENTER COMMISSION.

21-1.1 Possession, Detection of Weapons in City Hall.

No person other than a sworn officer of the Commonwealth, a member of the military service on active duty, or a constable, officer or official of the City or County having a license to carry firearms shall in any part of City Hall have possession of any dangerous weapon, which term shall include any firearm, and any item described in paragraphs (b) or (c) of Section 10 of Chapter 269 of the General Laws, unless authorized by the Commissioner of Real Property or that Commissioner's designee. If the Commissioner shall determine public safety requires, a system for detection of weapons may be established in City Hall and no person shall be admitted to, or enter, the building without submitting to such detection system. Any person violating the provisions hereof shall be punished by a fine of two hundred (\$200.00) dollars.
(Ord. 1992 c. 3 § 2)

21-2 AUDITORIUM COMMISSION.

Editor's Note:

Although this section has never been formally repealed the Auditorium was conveyed to the Massachusetts Convention Center Authority under the provisions of Ch. 190 of the Acts of 1980.

21-2.1 Commissioners.

There shall be in the City a Board known as the Auditorium Commission, consisting of five (5) officers known as Auditorium Commissioners, who shall be residents of the City, appointed by the Mayor as follows: one from three (3) candidates nominated by the City of Boston Hotel Association, one from three

(3) candidates nominated by the Greater Boston Real Estate Board, one from three (3) candidates nominated by the Greater Boston Chamber of Commerce, and two (2) selected at large by the Mayor. Commissioners shall serve five (5) years. As the term of any Commissioner expires, his successor shall be appointed in like manner as such Commissioner for a term of five (5) years. Vacancies in the Board shall be filled in the same manner for the unexpired term. Auditorium Commissioners shall serve without compensation, but shall be reimbursed for their traveling and other necessary expenses incurred in the performance of their duties.
(Ord. 1957 c. 2; Rev. Ord. 1961 c. 7 § 1; CBC 1975 Ord. 717 § 50)

21-2.2 Construction and Care of Municipal Auditorium.

The Auditorium Commission shall construct, or cause to be constructed, the municipal auditorium authorized by Chapter 164 of the Acts of 1954, with an exhibition hall, assembly hall and accessory rooms suitable for exhibitions, conventions and other shows and gatherings in the City; shall contract for the care and management thereof after its completion; and for such purposes may, subject to the approval of the Mayor, make such contracts and employ such experts, assistants and employees as they may think necessary or expedient.
(St. 1954 c. 164; Rev. Ord. 1961 c. 7 § 2; CBC 1975 Ord. 717 § 51)

21-2.3 Management of the Boston Arena.

The Auditorium Commission shall manage and care for the Boston Arena; and for such purposes may, subject to the approval of the Mayor, make such contracts and employ such experts, assistants and employees as they may think necessary or expedient.
(Ord. 1975 c. 12; CBC 1975 Ord. 717 § 52)

21-3 BOSTON ARENA AUTHORITY.

No Ordinances Apply. See Special Statutes.
(CBC 1975 St. T17 c. 5)

21-4 PUBLIC BUILDINGS; ACCESSIBILITY FOR PHYSICALLY HANDICAPPED.**21-4.1 Definitions.**

ABB shall mean the Architectural Barriers Board of the Massachusetts Department of Public Safety.

ABB rules shall mean the rules and regulations of the ABB as may be amended from time to time.

Advisory opinion shall mean written advisory opinion:

- a. Requested by an owner under Subsection 21-4.3;
- b. Issued by the Commission under Subsection 21-4.7;
- c. Regarding compliance of a proposed significant change with the ABB rules.

Amendments shall mean amendments filed under Section 113 of the basic code as may be amended from time to time.

Application shall mean application for a permit filed under Section 113 of the basic code as may be amended from time to time.

Basic Code shall mean the Massachusetts State Building Code as may be amended from time to time.

Building Department shall mean the Boston Building Department.

Commission shall mean the Boston Commission on the Physically Handicapped.

Complaint shall mean written complaint of noncompliance with the ABB rules:

a. Transmitted to the ABB;

b. In the form which the ABB may from time to time proscribe, and

c. Which, pursuant to MGL Chapter 22, Section 13A, the ABB must:

1. Investigate;
2. Act upon as necessary; and
3. Within sixty (60) days of complaint receipt, give notice in writing to the complaining party of its actions or proposed actions.

Owner shall mean an owner as defined under Section 201 of the basic code, as may be amended from time to time, who in Boston:

- a. Owns a public building; or
- b. Proposes a significant change that will result in the creation of a public building.

Permit shall mean as defined under Section 114 of the basic code as may be amended from time to time.

Physically handicapped person shall mean as defined under Section 4.10 of the ABB rules as may be amended from time to time.

Plans and specifications shall mean plans and specifications filed under Section 113 of the basic code as may be amended from time to time.

Public building shall mean as defined under Section 4.11 of the ABB rules as may be amended from time to time.

Significant change shall mean:

- a. An activity:
 1. Excluding demolition or removal;
 2. Costing over one thousand (\$1,000.00) dollars; and

3. For which an owner must file a permit application under Section 113 of the basic code as may be amended from time to time.

(Ord 1979 c. 40 § 1)

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

21-4.2 Commission to Issue Advisory Opinion on Compliance with the ABB Rules.

a. Any owner who proposes to make a significant change shall, under Subsection 21-4.3, request an advisory opinion from the Commission regarding compliance of the proposed change with the ABB rules.

b. The Commission shall issue an advisory opinion, under Subsection 21-4.7, and shall transmit this opinion to the ABB, the owner and the Building Department. If noncompliance is found, this opinion shall be in the form of a complaint.

(Ord. 1979 c. 40 § 2)

21-4.3 Filing of Request for Commission Advisory Opinion.

a. An owner who proposes to make a significant change shall file a request for an advisory opinion from the Commission.

b. The owner's request shall include:

1. At least one copy of the following items actually submitted, or to be submitted, to the Building Department:

(a) Application;

(b) Plans and specifications;

(c) Any other information that the Building Department requires accompany an application for the proposed significant change; and

2. Any other information the owner deems pertinent.

c. The owner shall file his request for an advisory opinion no more than three (3) workdays after filing an application for the significant change with the Building Department. The owner may submit his request before filing an application.

d. Upon filing a request, the owner shall pay the Commission a processing fee of twenty-five (\$25.00) dollars.

e. The Commission shall issue a receipt to the owner filing a request. The owner shall submit this receipt to the Building Department.

(Ord. 1979 c. 40 § 3) Penalty, see subsection 21-4.9

21-4.4 Filing of Supplementary Information.

a. If, after filing a request for an advisory opinion, the owner files with the Building Department:

1. Amendments; or

2. Any other information, whether or not required by the Building Department regarding the proposed significant change;

3. The owner shall: No more than three (3) working days after filing this information with the Building Department; file a copy of this supplemental information with the Commission.

b. After filing a request for an advisory opinion, the owner may also submit to the Commission supplemental information not submitted to the Building Department.

c. The Commission may not charge a fee for processing supplemental information received under this subsection.

(Ord. 1979 c. 40 § 4) Penalty, see subsection 21-4.9

21-4.5 Site for Filing Requests and Supplemental Information.

The Commission shall establish a site for the filing of advisory opinion requests and supplemental information under Subsections 21-4.3 and 21-4.4.

(Ord. 1979 c. 40 § 5)

21-4.6 Responsibilities of the Building Department.

a. At all sites where the Building Department takes applications, the Department shall post conspicuous notices informing owners of their responsibilities under Subsections 21-4.3 and 21-4.4.

b. The Building Department may not issue a permit to an owner until the owner submits a receipt from the Commission as required under Subsection 21-4.3e.

c. Neither:

1. Failure of the Building Department to post notices as required under paragraph a. of this subsection; nor

2. Issuance of permits by the Department in violation of paragraph b. of this subsection will relieve owners of their responsibilities under Subsections 21-4.3 and 21-4.4.
(Ord. 1979 c. 40 § 6)

21-4.7 Issuance of Advisory Opinions.

a. Within fourteen (14) workdays of receipt of a request for an advisory opinion, the Commission shall issue its advisory opinion. However, if prior to issuance the Commission receives supplemental information under Subsection 21-4.4, the Commission may delay issuance of this advisory opinion until fourteen (14) days after receipt of this supplemental information.

b. If, after issuance of this advisory opinion, the Commission receives supplemental information under Subsection 21-4.4, the Commission may issue an additional advisory opinion.

c. The Commission's advisory opinion, whether issued under paragraphs a. or b. of this subsection shall contain its finding that the proposed significant change:

1. Complies with ABB rules; or
2. Does not comply with ABB rules; or

3. Does not comply with the ABB rules, but advises that the significant change may qualify for a variance under Section 3 of the ABB rules as may be amended from time to time.

d. If the Commission makes a finding under either paragraph c.2 or c.3 of this subsection, it shall:

1. Include in its advisory opinion an explanation of the grounds for this finding; and

2. Conform its advisory opinion to the form of a complaint.

e. In addition to the other requirements of this subsection, the Commission may include in its advisory opinion any other information or comments which it deems pertinent.

f. At the time of issuance, the Commission shall transmit a copy of its advisory opinion to:

1. The ABB;
2. The owner requesting the opinion;
3. The Building Department.
(Ord. 1979 c. 40 § 7)

21-4.8 Annual Report.

a. By November 1 of each year, for the fiscal year just concluded, the Commission shall compile and submit to the Boston City Council a written report describing the Commission's activities under this section.

b. The Commission shall include in its report:

1. A list of requests for advisory opinions received;
2. A summary of the finding in the advisory opinions issued for each request;
3. A description of the inducted actions taken by the ABB if compiled; and
4. Other information which the Commission deems pertinent.
(Ord. 1979 c. 40 § 8)

21-4.9 Penalty.

An owner who violates Subsections 21-4.3 or 21-4.4 shall be punished by a fine not exceeding two hundred (\$200.00) dollars.
(Ord. 1979 c. 40 § 9)

21-4.10 Severability.

If any provision or clause of this section or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this of this section are declared to be severable.
(Ord. 1979 c. 40, § 10)

21-5 RESTRICTING SMOKING IN PUBLIC BUILDINGS.**21-5.1 Purpose.**

The purpose of this section is to protect the public health, comfort and environment by restricting smoking in public buildings and at public meetings to designated smoking areas and to set an example for the children of the City about the dangers of smoking.
(Ord. 1980 c. 16 § 1)

21-5.2 Definitions.

As used in this section:

Public building shall mean any building or enclosed indoor area owned or maintained by the City of Boston which is used by the general public, including offices, educational facilities and meeting rooms, but excluding private, enclosed offices.

Public meeting shall mean any meeting of a City governing body, agency or board conducted pursuant to M.G.L.A. Chapter 30A, Sections 23A and 23B, Chapter 34 Sections 9F and 9G and Chapter 39 Sections 23A and 23B.

Smoking shall mean the act of smoking or having in one's possession any lighted cigar, cigarette, pipe or any other tobacco product.
(Ord. 1980 c. 16 § 2)

21-5.3 Prohibition.

No person shall smoke in a public building or at a public meeting except in designated smoking areas. This prohibition does not apply where an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function.
(Ord. 1980 c. 16 § 3) Penalty, see subsection 21-5.5

21-5.4 Designated Smoking Areas.

Smoking areas may be designated in public buildings, except in places where smoking is prohibited by regulation of the Board of Fire Prevention.

Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the effects of smoke in adjacent nonsmoking areas. In the case of a public building consisting of a single room, the requirement of this section will be satisfied if one section of the room is reserved and posted as an area in which smoking is allowed and the remaining area is posted as a no smoking section.
(Ord. 1980 c. 16 § 4)

21-5.5 Penalty for Violation.

Any person who violates Subsection 21-5.3 shall be subject to a fine of not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars.
(Ord. 1980 c. 16 § 5)

21-5.6 Educational Program.

The Boston School Department shall institute an educational program in all junior and senior high schools in the City on the harmful effects of smoking. This program shall include a study of the physical health damage caused to both smokers and nonsmokers and shall be offered each year as part of the school curriculum.
(Ord. 1980 c. 16 § 6)

**21-6 CONCERNING INSTALLATION OF
FIRE AND SMOKE DETECTORS.**

Notwithstanding the provisions of any other ordinance now in existence, it shall be the duty and responsibility of the legal owner or his agent of a building structure to install fire and/or smoke detectors within the premises as defined in Section 26C of Chapter 148 of the Massachusetts General Laws.
(Ord. 1979 c. 36 § 1)

CHAPTER XXII
SUFFOLK COUNTY

**22-1 SUFFOLK COUNTY COURTHOUSE
COMMISSION.**

No Ordinances Apply. See Special Statutes.
(CBC 1975 St. T18 c. 1)

22-2 SUFFOLK COUNTY.

No Ordinances Apply. See Special Statutes.
(CBC 1975 St. T18 c. 3)

CHAPTER XXIII

TRASH AND REFUSE DISPOSAL

23-1 TRANSPORTATION OF REFUSE.

No person, other than employees of the City or of a contractor acting for the City while engaged in public work, shall transport or carry refuse in, upon or through any street except in accordance with a permit from the Commissioner of Public Works, who shall forthwith revoke such permit if the permittee transports or carries to any refuse disposal incinerator constructed, maintained and operated by the City any refuse originating outside the City. The word "refuse," as used in this paragraph, shall be construed to include rubbish, ashes, nonputrescible industrial wastes, and street cleanings, but not garbage, offal or other offensive substances coming within Sections 31A and 31B of Chapter 111 of the General Laws. (CBC 1975 Ord. T14 § 264; Recodified by Ord. 1991 c. 5 § 28; Ord. 2008 c. 3) Penalty, see § 23-20

23-2 DUMPSTERS.

No person shall, in or upon any way, street, alley, or other public place within the City, nor in or upon any estate within the City, maintain a dumpster so-called, being a device used or intended for the storage of one cubic yard or more of trash, rubbish, construction debris, or the like, unless the same is maintained agreeably to any regulation promulgated by the Commissioner of Public Works nor unless bearing a number issued by the said Commissioner to the owner of the dumpster, annually, upon payment of a filing fee of ten (\$10.00) dollars plus two (\$2.00) dollars per dumpster. (Ord. 1986 c. 15 § 2; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-3 PROHIBITING THE OPERATION OF REFUSE TREATMENT AND DISPOSAL FACILITIES IN THE CITY.

a. No person shall operate, establish, or maintain, nor shall any place within the City of Boston be operated, established, or maintained for a refuse treatment or disposal facility. For purposes of this subsection, the term "refuse treatment and disposal facility" shall include a sanitary landfill, a refuse composting plant, a dumping ground for refuse, or any other works for treatment or disposing of refuse; and "refuse" shall mean all solid or liquid waste materials, including garbage and rubbish, but not including sewage.

b. This subsection shall not apply to any refuse treatment and disposal facility lawfully in existence upon the effective date of this ordinance, nor shall it apply to any refuse transfer station lawfully in existence or undergoing review, in accordance with the provisions of General Laws c. 111, s. 150A should such review result in a site assignment within the term of that section, upon the effective date of this ordinance (subsection), nor shall it apply to any waste to energy recovery facility operated by, or under contract with the City of Boston; provided, however, that this paragraph b. shall not apply to afford an exception in the case of or with respect to any parcel or parcels within said City now, or in the ten (10) years preceding the effective date of this ordinance (subsection), upon which the commercial removal of stone, block, or any mineral, mining, or quarrying activity has been performed.

c. This subsection shall not apply to any on site energy recovery waste disposal system which serves only the building within which it is located.

d. Every new refuse transfer station shall be in a completely enclosed, covered structure and be located in an area zoned for industrial use. (Ord. 1976 c. 13 §§ 1, 2; Ord. 1981 c. 4 § 3; Ord. 1983 c. 34 §§ 2, 3, 4; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

Editor's Note:

The effective date of this subsection is November 3, 1976.

23-4 MEDICAL WASTE DISPOSAL.

No person shall store, keep, transport, dispose or prepare for transport or disposal of infectious and/or hazardous medical waste as that term is defined in the Code of Massachusetts Regulations, except in accord with such regulations, nor unless the same are wrapped or placed in a container which will prevent puncture by, or spillage of, such waste, nor unless the same is then bagged in a plastic or craft paper container (meeting the requirements of the ordinances for strength) marked "INFECTIOUS AND/OR HAZARDOUS MEDICAL WASTE". No person shall dispose of such waste in any manner inconsistent with state or federal law.

(Ord. 1988 c. 17 § 1; Recodified by Ord. 1991 c. 5 §§ 19, 28) Penalty, see § 23-20

23-5 RUBBISH DISPOSAL.

The owner or person in control of any premises within the City shall at all times maintain the sidewalks, alleys, streets, and places adjoining the premises free of trash, refuse, rubbish, or debris; provided, however, that this subsection shall not prohibit the storage of litter in the manner and at the times prescribed by the Commissioner of Public Works for purposes of collection.

(Ord. 1975 c. 2; CBC 1975 Ord. T14 § 294; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-6 RUMMAGING.

No person shall in any public way, public alley or other public place under the charge of the Commissioner of Public Works or upon any roadway or walk thereof rummage in or through rubbish or refuse of any kind or interfere with any bundle of rubbish or refuse or any receptacle containing rubbish or refuse. For fines, see § 23-20.

(CBC 1975 Ord. T14 § 295; Recodified by Ord. 1991 c. 5 § 28; Ord. 2008 c. 3) Penalty, see § 23-20

23-7 SIZE OF BARRELS.

No person shall deposit, drop or throw any filth, rubbish or other substance into a drum or other barrel with a diameter of more than twenty (20") inches or a height of more than twenty-eight (28") inches if by law or by arrangement such filth, rubbish or other substance is to be collected therefrom by the Public Works Department (whether through employees in its service or through an independent contractor acting for it) or by a person having a permit under Section 23-1 of this Chapter or Section 31A of Chapter 111 of the General Laws.

(CBC 1975 Ord. T14 § 296; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-8 OVERFILLING OF BARRELS OR DUMPSTER OF ANY SIZE.

No person shall deposit, drop or throw into a drum or other barrel with a diameter of twenty (20") inches or less and a height of twenty-eight (28") inches or less, or dumpster of any size, any filth, rubbish or other substance which by law or by arrangement is to be collected therefrom by the Public Works Department (whether through employees in its service or through an independent contractor acting for it) or by a person having a permit under Section 23-1 of this Chapter or Section 31A of Chapter 111 of the General Laws if such drum or barrel or dumpster will thereby be filled so high that such filth, rubbish or other substance or any part thereof is likely to drop or fall from such receptacle while it is being moved in the process of such collection.

(CBC 1975 Ord. T14 § 297; Ord. 1985 c. 7; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-9 TRASH OUTSIDE OF PLACES OF BUSINESS.

No person in control of a place of business abutting on a sidewalk shall knowingly suffer any rubbish, litter, filth, garbage or other refuse to remain on such sidewalk except in a receptacle or bundle placed on such sidewalk in accordance with the provisions in Section 23-1 of this Code. No dumpsters shall be allowed to remain on a property in an overflowing condition.

(CBC 1975 Ord. T14 § 301; Ord. 1985 c. 9 § 1; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-10 TRASH WITHIN PLACE OF BUSINESS.

No person in control of a place of business abutting on a street shall knowingly suffer any rubbish, litter, or other refuse to remain in the open on the estate upon which such place of business is located except in a receptacle or bundle from which such rubbish, litter or refuse is not likely to be blown onto such street. No dumpster shall be allowed to remain on a property in an overflowing condition.

(CBC 1975 Ord. T14 § 302; Ord. 1985 c. 9 § 2; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-11 APPLICATION FOR PERMIT TO MAINTAIN OUTDOOR DUMPSTER.

Every application for a permit to maintain an outdoor dumpster at a said location must be accompanied by evidence that a licensed refuse contractor servicing the facility will provide periodic pickup and removal of the refuse and cleaning and treatment against rodent or insect infestation at intervals not exceeding one week. The applicant must also supply evidence that the immediate area where the dumpster is to be located is free of rodent and insect infestation. If the applicant fails to have the refuse picked up and removed, or to have the area and the dumpster itself cleaned and treated within the specified time, the permit shall be revoked.

(Ord. 1982 c. 38 § 2; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-12 REFUSE CONTRACTORS REQUIRED TO BE LICENSED.

Each refuse contractor operating within the City of Boston shall be licensed annually by the Environmental Health Services Division of the Health and Hospitals Department.

(Ord. 1982 c. 38 § 3; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-13 CLEANING AND DISINFECTING OF STORAGE CONTAINERS; VIOLATIONS; PENALTY.

Each refuse contractor licensed by the City of Boston Health and Hospitals Department who stores refuse containers within the City of Boston shall be required to clean and disinfect said containers before they are stored. Failure to do so shall be punishable by a fine of fifty (\$50.00) dollars per container, per day. The lot, yard, or other area where containers are stored must be treated against rodent and insect infestation at intervals not exceeding thirty (30) days. (Ord. 1982 c. 38 § 3A; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-14 ESSENTIAL FACILITIES PERMITTED TO BE OPERATED OR ESTABLISHED.

No person shall establish, maintain, operate or use any place within the City of Boston, nor shall any place within the City of Boston be operated, established or maintained for a refuse treatment or disposal facility, unless such facility has been determined to be absolutely essential or necessary to protect the public health and as a result assigned by the Board of Health and Hospitals in accordance with M.G.L. C. 111, Section 150A after a public hearing and the use and plans or design therefor have been approved by the Massachusetts Department of Environmental Quality Engineering. The process to determine the essential or necessary status of any and all site applications is defined in Section 23-19. For the purposes of this section, the term "refuse treatment and disposal facility" shall include a sanitary landfill, a refuse composting plant, a dumping ground for refuse, a refuse transfer station, an incinerator with a

grate area in excess of ten (10) square feet, a residual waste storage or treatment plant, a site for the storage of wastes generated at another location, or any other works for treating, disposing, recycling, or recovering resources from refuse. "Refuse" shall mean all solid or liquid waste materials including garbage and rubbish, but not including sewage.

(Ord. 1985 c. 10 § 1; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-21

23-15 EXCLUSION FOR SYSTEM SERVING ONLY ONE BUILDING.

The provisions of this section shall not apply to any on-site energy recovery waste disposal system which serves only the building within which it is located.

(Ord. 1985 c. 10 § 2; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-16 REGULATIONS FOR NEW REFUSE TRANSFER STATIONS.

Every new refuse transfer station shall be a completely enclosed, covered structure and be located in an area zoned for industrial use.

(Ord. 1985 c. 10 § 3; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-17 CONDITIONS FOR ASSIGNMENT IMPOSED.

No person shall establish, maintain, operate or use an assigned facility other than in accordance with conditions of assignment imposed by the Board of Health and Hospitals and Massachusetts Departments of Environmental Quality Engineering approved plans.

(Ord. 1985 c. 10 § 4; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-18 APPLICATION OF REGULATIONS.

Section 23-14 shall not apply to any assigned facility which was assigned as of December 30, 1983 and has Department of Environmental Quality Engineering approved plans, provided, however, that

any assigned facility that applies for a substantial modification, change or amendment in the original site assignment shall be subject to the provisions of this section.

(Ord. 1985 c. 10 § 5; Recodified by Ord. 1991 c. 5, § 28) Penalty, see § 23-20

23-19 "NECESSARY AND ESSENTIAL" DESIGNATION OBTAINED FROM CITY COUNCIL.

Prior to any application for site assignment to the Health and Hospitals Department of the City of Boston under the provisions of M.G.L. C. 111, Section 150A, the prospective applicant must obtain a "necessary and essential" designation from the City Council. These designations may be obtained by the approval of a majority vote of the Council and the approval of the Mayor, provided, however, that if the Mayor disapproves the designation, the Council may approve the designation notwithstanding the disapproval of the Mayor by a two-thirds (2/3) vote of all the Councillors. Such votes for the approval of a designation shall be identical in format to any ordinance. The prospective applicant shall petition the City Council, through the City Clerk, on forms approved by the Clerk, which shall include, but not be limited to, name, address, and telephone number of applicant, place of current business, proposed site, type of business to be allowed, size and structure of proposed facility, list of abutters and statement of petitioner as to the "necessary and essential" nature of the proposed facility. The attested results of the final vote of the City Council relative to the petition shall be forwarded by the City Clerk to the petitioner forthwith. Any petitioner aggrieved by any action of the City Council refusing to grant the necessary and essential designation, within seven (7) days after such action, may appeal therefrom to the Board of Health and Hospitals. The Board of Health and Hospitals through its Trustees or their designee shall review the petition within sixty (60) days and render a decision. The decision of the Board of Health and Hospitals shall be final.

(Ord. 1985 c. 10 § 6; Recodified by Ord. 1991 c. 5 § 28) Penalty, see § 23-20

23-20 VIOLATIONS; PENALTIES; FINES ESTABLISHED.

Any person violating any provision of the following enumerated subsections of Chapter XXIII, shall be punished by the following penalties for violations thereof; and not only the person actually performing the prohibited act of thing, but also his employer and every other person concerned in so doing shall be punished by such fine.

- Subsection 23-1: Two hundred (\$200.00) dollars.
- Subsection 23-2: Three hundred (\$300.00) dollars.
- Subsection 23-3: The owner and/or operator of a facility in violation of this section shall be fined not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars per violation. Each entering loaded vehicle or loaded container of refuse delivered to the facility, the refuse from which is processed or stored either in a container or on the ground at the facility, shall constitute a separate violation. Each day of operation or maintenance shall constitute a separate violation.
- Subsection 23-4: Three hundred (\$300.00) dollars.
- Subsection 23-5: Twenty-five (\$25.00) dollars for residential premises.
- Subsection 23-6: Ten (\$10.00) dollars.
- Subsection 23-7: Ten (\$10.00) dollars.

Subsection 23-8: One hundred (\$100.00) dollars.

Subsection 23-9: Fifty (\$50.00) dollars.

Subsection 23-10: Fifty (\$50.00) dollars.
(Ord. 1985 c. 10 § 8; Recodified by Ord. 1991 c. 5 § 28; Ord. 2008 c. 3)

23-21 VIOLATIONS; PENALTY; ENFORCEMENT.

The user of a facility in violation of Section 23-14 shall be fined not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars per violation. Both the waste hauling company and the vehicle operator shall be considered users. Each loaded vehicle or loaded container of refuse delivered to the facility for processing or for storage, either in a container or on the ground, at the facility shall constitute a separate violation.

The Board of Health and Hospitals, through its Commissioner of Health and Hospitals shall have enforcement powers hereunder.

This section shall take effect upon passage, provided however, that any current license holder shall be exempt but that any current applicant or future applicant for a license shall be subject to the provisions of this section.
(Ord. 1985 c. 10 §§ 1-12; Recodified by Ord. 1991 c. 5 § 28)

23-22 RUBBISH DISPOSAL; PENALTY.

In the City of Boston, fines for violation of General Laws Chapter 270, Section 16, shall be determined based on volume, location and content subject to the following schedule:

(a) Up to and including one (1) cubic yard illegally dumped in an unauthorized container will be fined one hundred (\$100.00) dollars. Up to and including one (1) cubic yard illegally dumped in a vacant lot or on a public way and or public property will be fined two hundred fifty (\$250.00) dollars. Up to and including one (1) cubic yard illegally dumped

in a park or playground will be fined five hundred (\$500.00) dollars. Any volume between one (1) and five (5) cubic yards found in a vacant lot or on a public way and/or public property will be fined one thousand (\$1,000.00) dollars. If illegally dumped in a park or playground any volume between one (1) and five (5) cubic yards will be fined fifteen hundred (\$1,500.00) dollars. Five (5) cubic yards or more found in a vacant lot or on a public way and/or property will be fined two thousand five hundred (\$2,500.00) dollars and five (5) cubic yards or more illegally dumped in a park or a playground will be fined three thousand (\$3,000.00) dollars.

(b) Restricted solid waste as defined in 310 CMR 19 Massachusetts Department of Environmental Protection, including but not limited to televisions, major appliances and computer monitors, in any and all volumes illegally dumped in any and all locations will be fined two thousand (\$2,000.00) dollars.

(c) Construction debris and other related materials, in any and all volumes, illegally dumped in any and all locations will be fined two thousand five hundred dollars (\$2,500.00) dollars and referred to the Boston Environmental Strike Team (B.E.S.T.) for further investigation and enforcement.

(d) Hazardous/toxic waste as defined in M.G.L. c. 21C, s. 2, M.G.L. c. 21I, s. 2, M.G.L. c. 21I, s. 9, 310 CMR 16 Massachusetts Department of Environmental Protection and 310 CMR 19 Massachusetts Department of Environmental Protection, in any and all volumes illegally dumped in any and all locations will be fined three thousand (\$3,000.00) dollars and referred to B.E.S.T. for investigation and enforcement including additional fines where authorized.
(Ord. 2007 c. 10 §§ 1, 2)

23-23 ENFORCEMENT AND REGULATORY AUTHORITY.

The Commissioner of the Inspectional Services Department shall have the authority to enforce Chapter XXIII and to promulgate rules and regulations

necessary to implement and enforce these sections. City of Boston, Ordinances, Chapter XXIII may be enforced in accordance with the provisions of G.L. c. 40, § 21 D as inserted by St. 1977, c. 401.
(Ord. 2008 c. 3)

23-24 ENFORCEMENT IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW.

Any person taking cognizance of a violation of the sections of this Code set forth in Chapter XXIII hereof which he is empowered to enforce by statute, ordinance, or by appointment as special Police Officer may enforce said ordinances in accordance with G.L. c. 40, § 21D as inserted by St. 1977, c. 401.
(Ord. 1977 c. 16 [371]; Ord. 2008 c. 3)

CHAPTER XXIV

BOSTON JOBS AND LIVING WAGE ORDINANCE

Editor's Note:

Prior ordinance history includes portions of Ordinance Nos. 1997 c. 5 and 1998 c. 3.

24-1 TITLE AND PURPOSE.

This Chapter shall be known as the "Boston Jobs and Living Wage Ordinance." The purpose of this Chapter is to assure that employees of vendors who contract with the City of Boston to provide services earn an hourly wage that is sufficient for a family of four (4) to live at or above the Federal poverty level. This Chapter is also designed to maximize access for low- and moderate-income Bostonians to the jobs that are created, maintained or subsidized through service contracts with the City of Boston.

(Ord. 1998 c. 5 § 1)

24-2 DEFINITIONS.

For the purpose of this Chapter, the term:

a. *Assistance* shall mean any grant, loan, tax incentive, bond financing, subsidy, or other form of assistance of one hundred thousand (\$100,000.00) dollars or more realized by or through the authority or approval of the City of Boston, including, but not limited to industrial development bonds, Community Development Block Grant (CDBG) loans and Federal Enhanced Enterprise Community designations awarded after the effective date of this Chapter. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable Federal rate as used in 26 U.S.C., Section 1274(d) 7872(f). A recipient of assistance shall not be deemed to include leases and subleases.

b. *Beneficiary* shall mean any direct recipient of at least one hundred thousand (\$100,000.00) dollars of assistance provided that the beneficiary is a for-profit employer of at least twenty-five (25) FTE's or a not-for-profit employer of at least one hundred (100) FTE's.

c. *Contracting department* shall mean any City department that awards a service contract.

d. *Covered employee* shall mean a person employed by a covered vendor who directly expends or would directly expend his or her time on the service contract with the City of Boston or on the service subcontract.

e. *Covered vendor* means any for-profit employer or any not-for-profit employer who employs at least twenty-five (25) FTE's who has been awarded a service contract or service subcontract after the effective date of this section. This term does not include beneficiary as herein defined.

f. *Designated department* shall mean the City of Boston department or agency, designated by the Mayor, to be responsible for the overall implementation, compliance and enforcement of this Chapter.

g. *First Source Hiring Agreement* shall mean a signed agreement between a covered vendor or a beneficiary and a referral agency.

h. *Full-time equivalent (FTE)* shall mean a formula to calculate the number of employee work hours which equal one (1) full-time position. For the purposes of this Chapter, full time shall mean the standard number of working hours, between thirty-five (35) hours and forty (40) hours per week, that is used by the covered vendor to determine full time employment.

i. *Living wage* shall mean the rate established by the designated department as the minimum hourly wage rate that shall be paid to a covered employee by a covered vendor pursuant to the formula set forth in Section 24-6 of this Chapter.

j. *Low- and moderate-income persons* shall mean persons with an annual income that is less than eighty (80%) percent of median income for the Boston Primary Standard Metropolitan Statistical Area as published by the Department of Housing and Urban Development.

k. *Person* shall mean one (1) or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by this Commonwealth.

l. *Referral agency* shall mean any organized job registry and referral service operated by a not-for-profit organization or union provided that the not-for-profit organization has the following:

1. An established community membership base and record of conducting outreach in low- and moderate-income Boston communities;

2. A computerized skills bank where individuals may register for employment and training opportunities;

3. An established process whereby an employer can post job openings, and where referrals can begin within forty-eight (48) hours of such posting;

4. A governing board comprised of a majority of low- and moderate-income Boston residents; or the majority of services provided by the entity are furnished to low- and moderate-income Boston residents;

5. A proven track record of nondiscriminatory job placement with respect to race, color, religion, national origin, sex, gender identity or expression, sexual orientation, age, marital status,

discharge from the military service or handicap unrelated to job ability; and

6. Is certified as meeting requirements 1, 1. through 5. by the Boston Office of Jobs and Community Services.

m. *Service contract* shall mean any contract of at least fifty thousand (\$50,000.00) dollars or more awarded to a vendor by the City for the furnishing of services to or for the City. Beginning on July 1, 2002, "Service Contract" shall mean any contract of at least twenty-five thousand (\$25,000.00) dollars or more awarded to a vendor by the City for the furnishing of services to or for the City.

n. *Service subcontract* shall mean a subcontract of twenty-five thousand (\$25,000.00) dollars or more awarded to a vendor by a covered vendor, provided the subcontract is paid for by funds from the service contract.

o. *Youth program* shall mean any City, State, or Federally funded program which employs youth, as defined by City, State, or Federal guidelines, during the summer, or as part of a school to work program, or in other related seasonal or part-time program.

p. *Vendor agreement* shall mean a written agreement between the City of Boston and any covered vendor that is executed at the time a service contract is signed with the City or a subcontract is signed with a covered vendor.
(Ord. 1998 c. 5 § 2; Ord. 2001 c. 8; Ord. 2002 c. 9)

24-3 APPLICABILITY, EXEMPTIONS, AND WAIVERS.

24-3.1 Applicability.

All of the provisions of this Chapter shall apply to all covered vendors as defined in this Chapter, not including the exemptions listed in subsection 24-3.2 of this section.
(Ord. 1998 c. 5 § 3)

24-3.2 Exemptions.

The following types of assistance, service contracts and subcontracts shall be exempt from the provisions of this Chapter:

a. Construction contracts awarded by the City of Boston that are subject to the State prevailing wage law; and

b. Assistance or contracts awarded to youth programs, as defined in this Chapter, provided that the contract is for stipends to youth in the program; and

c. Assistance or contracts awarded to work-study or cooperative educational programs, provided that the assistance or contract is for stipends to students in the programs; and

d. Assistance and contracts awarded to vendors who provide services to the City and are awarded to vendors who provide trainees a stipend or wage as part of a job training program and provides the trainees with additional services, which may include but are not limited to room and board, case management, and job readiness services, and provided further that the trainees do not replace current City funded positions.

(Ord. 1998 c. 5 § 3)

24-3.3 Affidavit Certifying Exemption Required.

Covered vendors and beneficiaries of assistance must certify in an affidavit in a form approved by the designated department and provided by the contracting department and signed by a principal officer of the covered vendor or beneficiary of assistance, that one (1) of the exemptions herein applies to them before they can be considered exempt. The covered vendor or the beneficiary of assistance shall submit the affidavit to the contracting department who shall forward a copy to the designated department and the Living Wage Advisory Committee.

(Ord. 1998 c. 5 § 3) Penalty, see § 24-11

24-3.4 Waivers.

a. *General Waiver.* Waivers may be granted by the designated department where application of this Chapter to a particular form of assistance, a service contract or subcontract violates a specific State or Federal statutory, regulatory or constitutional provision or provisions. All general waiver requests shall include the following:

1. The assistance, service contract or subcontract to which this Chapter applies;

2. The conflicting statutory, regulatory or constitutional provision or provisions that makes compliance with this Chapter unlawful, and a copy of each such provision; and

3. An explanation of how compliance with this Chapter would violate the cited provision or provisions, and the consequences that would result if this violation were to occur.

A general waiver request shall be submitted directly to the designated department. The designated department shall forward a copy of all requests to the Living Wage Advisory Committee.

b. *Hardship Waiver.* The contracting departments shall monitor, and as necessary, recommend to the designated department, individual or group exemptions necessary in cases in which compliance with this Chapter would cause undue economic hardship. Such waivers shall be subject to the designated department's approval after having held a public hearing on the request.

All hardship waiver requests shall include the following:

1. The service contract or service subcontract to which this Chapter applies;

2. The lower wage paid by the covered vendor, and

3. A detailed explanation of how the payment of a living wage will cause undue economic hardship including supporting financial statements.

All hardship waiver requests shall be forwarded to the Living Wage Advisory Committee. Hardship waivers under this section shall not be applicable to beneficiaries of assistance.

(Ord. 1998 c. 5 § 3)

24-4 FIRST SOURCE HIRING AGREEMENTS.

All covered vendors and all beneficiaries of assistance (hereinafter referred to as "the employer" for the purposes of this section) shall sign a First Source Hiring Agreement with one (1) or more referral agencies or one (1) or more Boston One Stop Career Centers which shall include the following:

a. Prior to announcing or advertising an employment position for work which shall be performed as a result of a service contract, service subcontract or assistance created either as a result of a vacancy of an existing position or of a new employment position, the employer shall notify the referral agency about the position, including a general description and the employer's minimum requirements for qualified applicants for such position;

b. The employer shall not make such public announcement or advertisement for a period of five (5) business days after notification to the referral agency of the availability of such position. Such five (5) day period is hereinafter referred to as the "Advance Notice Period";

c. The referral agency shall maintain a database of job opportunities subject to this Chapter and shall provide information on such job opportunities to all Boston residents who receive services;

d. The Advance Notice Period shall be waived if the referral agency has no qualified candidates to refer to the covered vendor or beneficiary;

e. The referral agency or Career Center shall institute a tracking system and record which applicants were interviewed, which applicants were not interviewed, and which applicants were hired for the positions;

f. The Agreement does not require the employer to comply with these procedures if it fills the job vacancy or newly created position by transfer or promotion from existing staff or from a file of qualified applicants previously referred by the referral agency or Career Center; and

g. The Agreement shall not require the employer to hire any applicant referred under the terms of this Agreement.

Beneficiaries who receive assistance from the City in the amount of one million (\$1,000,000.00) dollars or more in any twelve (12) month period shall be required to comply with this section for five (5) years from the date such assistance reaches the one million (\$1,000,000.00) dollar threshold. Beneficiaries receiving less than one million (\$1,000,000.00) dollars but at least one hundred thousand (\$100,000.00) dollars of assistance in any twelve (12) month period shall be required to comply with this section for one (1) year.

(Ord. 1998 c. 5 § 4) Penalty, see § 24-11

24-5 NOTIFICATION REQUIREMENTS.

All contracting departments engaged in the awarding of contracts shall provide in writing, an explanation designed by the designated department, of the requirements of this Chapter in all requests for bids for service contracts with the City of Boston. All persons who have signed a service contract with the City of Boston shall forward a copy of such requirements to any person submitting a bid for a subcontract on the service contract.

(Ord. 1998 c. 5 § 5) Penalty, see § 24-11

24-6 LIVING WAGE PAYMENT TO EMPLOYEES.

24-6.1 Applicability.

Covered vendors shall pay no less than the living wage to covered employees.

(Ord. 1998 c. 5 § 6) Penalty, see § 24-11

24-6.2 Calculation of the Living Wage.

The living wage shall be calculated on an hourly basis and shall be no less than ten dollars and twenty-five (\$10.25) cents from the effective date of passage of this section, subject to adjustment each year on July 1:

a. To the hourly rate which at forty (40) hours of work a week for fifty (50) weeks a year would be

equal to but not less than one hundred sixteen percent (116%) of the poverty threshold for a family of four (4) as published by the United States Department of Health and Human Services; or

b. In proportion to the increase at the immediately preceding December 31 over the year earlier level of the Annual Average Consumer Price Index for All Urban Consumers (CPI-U) Boston-Lawrence-Salem, MA NH as published by the Bureau of Labor Statistics, United States Department of Labor applied to ten dollars and twenty-five (\$10.25) cents; or

c. One hundred ten (110%) percent of the Federal or State minimum wage; or whichever of the foregoing is higher.
(Ord. 1998 c. 5 § 6; Ord. 2001 c. 8) Penalty, see § 24-11

24-7 DUTIES OF COVERED VENDORS.

24-7.1 Notification Requirements.

Covered vendors shall provide each covered employee with a fact sheet about this Chapter and shall post a notice about the Chapter in a conspicuous location visible to all employees. The fact sheet and poster shall be provided to the covered vendor by the designated department and shall include:

- a. Notice of the living wage amount;
- b. A summary of the provisions of this Chapter;
- c. A description of the enforcement provisions of the Chapter;
- d. The name, address, and phone number of a person designated by the designated department to which complaints of noncompliance with this Chapter should be directed.

(Ord. 1998 c. 5 § 7) Penalty, see § 24-11

24-7.2 Maintenance and Examination of Payroll Records.

a. *Maintenance of Payroll Records.* Each covered vendor shall maintain payrolls for all covered employees and basic records relating thereto for a

period of three (3) years. The records shall contain the name and address of each employee, the job title and classification, the number of hours worked each day, the gross wages, deductions made, actual wages paid, a copy of the social security returns, and evidence of payment thereof, a record of fringe benefit payments including contributions to approved plans, funds or programs and/or additional cash payments, and such other data as may be required by the contracting department from time to time.

b. *Examination of Payrolls.* Each covered vendor shall permit representatives of the designated department or their designees to observe work being performed upon the work site, to interview employees and to examine the books and records relating to the payrolls being investigated.
(Ord. 1998 c. 5 § 7) Penalty, see § 24-11

24-7.3 Vendor Agreements.

At the time of signing a service contract with the City of Boston or subcontract with a vendor, the contract with the covered vendor must include the following:

- a. The name of the program or project under which the contract or subcontract is being awarded;
- b. A local contact name, address, and phone number for the covered vendor;
- c. A written commitment by the covered vendor to pay all covered employees not less than the living wage, subject to adjustment each July 1, and to comply with the provisions of this Chapter;
- d. A workforce profile of covered employees paid for by the service contract or subcontract including the employees' job titles with wage ranges, number of covered employees who are Boston residents, and the number of covered employees who are minorities and women;
- e. A written narrative of the covered vendors' past efforts and future goals to hire low- and moderate-income Boston residents and train covered employees; the potential for advancement and raises for covered employees; the net increase and decrease in number of jobs or number of jobs maintained by classification that will result from the awarding of the service contract;

f. For service contracts, a list of all service subcontracts either awarded or that will be awarded to vendors with funds from the service contract. Any covered vendor awarded a service contract shall notify the contracting department within three (3) working days of signing a service subcontract with a vendor. (Ord. 1998 c. 5 § 7) Penalty, see § 24-11

24-7.4 Reports.

Covered vendors shall provide quarterly reports to the designated department of their employment activities. Not-for-profit vendors with fifty (50) or more FTE's and all for-profit vendors shall be required to provide such reports biannually. These reports shall include:

a. The job positions charged to the service contract or service subcontract, the wage ranges of those positions;

b. The total number of Boston residents, women and minorities who are charged to the service contract or service subcontract;

The designated department shall submit a summary of said reports to the City Council and Living Wage Advisory Committee within thirty (30) working days following the end of each quarterly or biannual reporting period. (Ord. 1998 c. 5 § 7; Ord. 2001 c. 8) Penalty, see § 24-11

24-8 LIVING WAGE ADVISORY COMMITTEE.

24-8.1 Purpose.

The purpose of the Living Wage Advisory Committee shall be to review the effectiveness of this Chapter in creating and retaining living wage jobs in Boston, to promote access to living wage jobs for low- and moderate-income Bostonians, to review the implementation and enforcement of this Chapter, and to make recommendations from time to time in connection therewith. (Ord. 1998 c. 5 § 8)

24-8.2 Composition and Term.

The Living Wage Advisory Committee shall be comprised of seven (7) members who shall be appointed by the Mayor:

a. One (1) member of the Committee shall be a labor union member appointed by the Mayor from a list of three (3) nominees recommended by the Massachusetts AFL-CIO;

b. One (1) member of the Committee shall be a member of the Association of Community Organizations for Reform Now (ACORN) appointed by the Mayor from a list of three (3) nominees recommended by ACORN;

c. One (1) member of a community-based organization operating solely within the City of Boston;

d. One (1) member of the Greater Boston Chamber of Commerce appointed by the Mayor from a list of three (3) nominees recommended by the Chamber; and

e. One (1) member of the Boston Chamber of Neighborhood Commerce appointed by the Mayor from a list of three (3) nominees recommended by the Neighborhood Chamber.

Each member of this committee shall serve a three (3) year term. (Ord. 1998 c. 5 § 8)

24-8.3 Meetings.

The Living Wage Advisory Committee shall meet quarterly and in special session as required. All meetings of the Living Wage Advisory Committee shall be open to the public under the Commonwealth's Open Meeting Law. The Committee shall promulgate regulations and rules which allow for public participation and testimony at hearings and meetings. (Ord. 1998 c. 5 § 8)

24-8.4 Conflict of Interest.

For the purposes of this Chapter, no member of the Living Wage Advisory Committee shall participate

in any proceeding concerning a beneficiary, a covered vendor, a covered employee, or applicant for waiver or exemption, if the member or any member of his or her immediate family has a direct or indirect financial interest in said individual or in the award of a service contract, subcontract or assistance or the granting of relief to said individual.

(Ord. 1998 c. 5 § 8)

24-9 ENFORCEMENT POWERS.

If necessary for the enforcement of this Chapter, the designated department may issue subpoenas, compel the attendance and testimony of witnesses and production of books, papers, records and documents relating to payroll records necessary for hearing, investigations, and proceedings. The designated department may apply to a court of competent jurisdiction to enforce these provisions.

(Ord. 1998 c. 5 § 9)

24-10 COMPLAINT PROCEDURES AND INVESTIGATIONS.

24-10.1 Complaints.

a. A person or an employee who believes that he or she is a covered employee or a person who is an applicant for a position to be filled by a covered employee and believes that his or her employer is not complying with requirements of this Chapter applicable to the employee, may file a complaint with the designated department. Complaints by covered employees of alleged violations may be made at any time. Statements written or oral, made by an employee, shall be treated as confidential and shall not be disclosed to the covered vendor without the consent of the employee.

b. A complaint of noncompliance with this Chapter may be filed by any person with the designated department, which shall provide a copy of the complaint to each covered vendor against whom the complaint is made within five (5) business days.

(Ord. 1998 c. 5 § 10)

24-10.2 Discrimination Against Covered Employees Barred.

If a covered vendor: discharges; reduces the compensation of; or discriminates against any covered employee or any other person for making a complaint to the designated department, otherwise asserting his or her rights under this Chapter, participating in any of its proceedings, or using any civil remedies to enforce his or her rights under the Chapter, the covered vendor shall be considered in violation of this Chapter. The designated department shall investigate allegations of retaliation or discrimination and shall, if found to be true, after notice and a hearing order appropriate relief to the employee or person and penalties for the covered vendor and may suspend the contract or order the service contractor to suspend the subcontract.

(Ord. 1998 c. 5 § 10)

24-10.3 Investigations.

The designated department, or its designee shall investigate all complaints of noncompliance. Investigations may include routine reviews, spot checks, and investigations pursuant to complaints. The designated department, or its designee, shall have the responsibility to examine promptly all payrolls for compliance upon receiving a complaint, in furtherance of any investigation.

(Ord. 1998 c. 5 § 10)

24-10.4 Noncompliance.

a. If the designated department finds evidence that the covered vendor is not in compliance or has violated any of the provisions of this Chapter, the designated department shall order such remedial measures as required to ensure compliance herewith including, but not limited to: ordering back-pay to covered employees for noncompliance with Section 24-6, Living Wage Payment to Employees.

b. If the covered vendor does not comply with the designated department's order within ten (10) working days, the designated department shall review the facts of the finding and may proceed with a formal hearing and investigation. If a hearing is held by the designated department, the department shall review

remedies and penalties with the Living Wage Advisory Committee. If the designated department decides not to proceed with a hearing, it shall so notify the Living Wage Advisory Committee and provide a statement of the reasons for the decision.

(Ord. 1998 c. 5 § 10)

24-10.5 Living Wage Advisory Committee Compliance Review Hearings.

The Living Wage Advisory Committee shall determine the need for an additional public hearing on any recommendations by the designated department. If a hearing is deemed necessary, it shall be scheduled and conducted by the Committee, in conjunction with the designated department, within twenty (20) business days of the designated department's notification to the Committee of a covered vendor's noncompliance. The Committee shall file a notice of the hearing seven (7) working days before such hearing to the City Clerk, the covered vendor, and the complaining party or parties.

(Ord. 1998 c. 5 § 10)

24-11 PENALTIES AND REMEDIES.

a. In the event that the designated department determines, after notice and hearing, that any covered vendor has failed to pay the living wage rate or has otherwise violated the provisions of this Chapter, the designated department may order any or all of the following penalties and relief

1. Fines in the amount of three hundred (\$300.00) dollars for each covered employee for each day that the covered vendor is in violation of this Chapter;

2. The filing of a complaint with the pertinent State or Federal agency;

3. Wage restitution for each affected employee;

4. Suspension of ongoing contracts and subcontract payments; and

5. Ineligibility for future contracts with the City for three (3) years or until all penalties and restitution have been paid in full;

6. Any other action deemed appropriate and within the discretion and authority of the City.

b. *Remedies Herein Non-Exclusive.* No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce the right granted under this Chapter in a court of law. This Chapter shall not be construed to limit an employee's right to bring common law cause of action for wrongful termination.

(Ord. 1998 c. 5 § 11)

24-12 EARNED INCOME CREDIT NOTIFICATION.

Covered vendors and beneficiaries shall inform covered employees earning less than twelve (\$12.00) dollars per hour, or such other amount as determined by the designated department, of their possible eligibility for the State and/or Federal Earned Income Credit ("EIC").

(Ord. 1998 c. 5 § 12)

24-13 SEVERABILITY.

In the event any provision of this Chapter shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

(Ord. 1998 c. 5 § 13)

24-14 EFFECTIVE DATE.

This Chapter shall be effective upon its passage.

(Ord. 1998 c. 5 § 14)

APPENDIX A

CODE COMPARATIVE TABLE

City of Boston Code 1975	City of Boston Code 1985	City of Boston Code 1975	City of Boston Code 1985
Ord. T1 C1 S 1	1-1	Ord. T2 C13	2-11
S 2	1-2.1	Ord. T2 C15 750	2-12.1
S 3	1-2.2	751	2-12.2
S 4	1-2.3	752	2-12.3
S 5	1-2.4	753	2-12.4
S 6	1-2.5	Ord. T3 C1	Chap. III
S 7	1-2.6	Ord. T4 C1	Chap. IV
S 8	1-2.7	Ord. T5 C1 S 1	5-1.1
S 9	1-2.8	2	5-1.2
S 10	1-3	3	5-1.3
S 11	1-4	4	5-1.4
S 12	1-5	5	5-1.5
Ord. T2 C1	2-1	6	5-1.6
Ord. T2 C3	2-2	7	5-1.8
Ord. T2 C5 S 200	2-3.1	8	5-1.9
201	2-3.2	9	5-1.10
202	2-4.1	10	5-2.1
203	2-4.2	11	5-3.1
204	2-5.1	Ord. T5 C3 100	5-5.1
Ord T2 C7 350	2-7.1	S 101	5-5.2
351	2-7.2	102	5-5.6
352	2-7.3	103	5-5.8
353	2-7.4	104	5-5.9
354	2-7.5	105	5-5.10
355	2-7.6	106	5-5.12
356	2-7.7	107	5-5.13
357	2-7.8	108	5-5.14
358	2-7.9	109	5-5.15
359	2-7.10	110	5-5.16
360	2-7.11	111	5-5.17
361	2-7.12	112	5-5.18
362	2-7.13	113	5-5.21
Ord. T2 C9 450	2-8.1	114	5-5.22
451	2-8.2	115	5-5.23
452	2-8.3	116	5-5.24
Ord. T2 C11 550	2-10.1	117	5-5.25
551	2-10.2	118	5-5.26
552	2-10.3	119	5-5.27
553	2-10.4	120	5-5.28
554	2-10.5	121	5-5.29
122	5-5.30	3	7-1.3
123	5-5.31	Ord. T7 C3 S 50	7-2.1
124	5-5.32	Ord. T7 C5 100	7-4.1

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City of Boston Code 1975	City of Boston Code 1985	City of Boston Code 1975	City of Boston Code 1985
125	5-5.33	101	7-4.2
126	5-5.34	102	7-4.3
127	5-5.35	103	7-4.4
128	5-5.36	104	7-4.5
Ord. T5 C5	5-6	105	7-4.6
Ord. T5 C7 S 400	5-7.1	106	7-4.7
Ord. T5 C9 450	5-8.1	107	7-4.8
451	5-8.2	108	7-4.9
Ord. T6 C1 S 1	6-1.1	109	7-4.10
2	6-1.2	110	7-4.11
3	6-1.3	111	7-4.12
4	6-1.4	112	7-4.13
5	6-1.5	113	7-5.1
6	6-1.6	114	7-5.3
7	6-1.7	115	7-5.4
8	6-1.8	Ord. T7 C7	7-6
9	6-1.9	Ord. T7 C9 S 200	7-7.1
10	6-1.10	201	7-7.2
Ord. T6 C3 S 100	6-2.1	S 202	7-7.3
101	6-2.2	Ord. T7 C11 S 300	7-9.1
102	6-2.3	301	7-9.2
103	6-2.4	302	7-9.3
104	6-2.5	Ord. T8 C1 S 1	8-1.1
Ord. T6 C5 S 150	6-3.1	2	8-1.2
151	6-3.2	3	8-1.3
152	6-3.3	4	8-1.4
153	6-3.4	5	Not in Code
154	6-3.5	6	8-2.1
155	6-3.6	7	8-2.2
156	6-3.8	8	8-2.3
157	6-3.9	9	8-2.4
158	6-3.10	10	8-2.5
159	6-3.11	11	8-2.6
160	6-3.12	12	8-2.7
161	Not in Code	Ord. T8 C3	8-3
Ord. T6 C7	6-4	Ord. T8 C5	8-4
Ord. T6 C9	6-5	C7 S 300	8-5.1
Ord. T7 C1 S 1	7-1.1	301	8-5.2
2	7-1.2	302	8-5.3
Ord. T8 C9	8-6	T11 C3 S 75	11-4.1
C11, S 500	8-7.1	76	11-4.2
C13 S 600	Not in Code	77	11-4.3
601	Not in Code	78	11-4.4
Ord. T9 C1 S 1	9-1.1	79	11-4.5
2	9-1.2	80	11-4.6
10	9-2.1	81	11-4.7
Ord. T9 C3 S 50	9-3.1	T11 C5 S 150	11-6.1
51	9-3.2	151	11-6.2
52	9-3.3	152	11-6.3
53	9-3.4	153	11-6.4

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City of Boston Code 1975	City of Boston Code 1985	City of Boston Code 1975	City of Boston Code 1985
Ord. T9 C5 S 150	9-4.1	154	11-6.5
151	4-4.2	155	11-6.6
Ord. T9 C7 200	9-5.1	156	11-6.7
Ord. T9 C9	9-6	157	11-6.8
C11	9-7	158	11-6.9
C13 S 350	9-8.1	159	11-6.10
351	9-8.2	160	11-6.11
Ord. T10 C1	10-1	161	11-6.12
C3 S 100	Not in Code	162	11-6.13
101	10-2.1	163	11-6.14
102	10-2.2	164	11-6.15
103	10-2.4	165	11-6.16
104	10-2.3	166	11-6.17
105	10-2.5	167	11-6.18
106	10-2.7	168	11-6.26
107	10-2.8	169	11-6.27
108	10-2.9	170	11-6.28
109	10-2.16	171	11-6.29
110	10-2.17	172	11-6.30
111	10-2.19	173	11-6.31
112	10-2.20	174	11-6.32
113	10-2.21	175	11-6.33
114	10-2.22	176	11-6.34
Ord. T11 C1 S 1	11-1.1	177	11-6.35
S 2	11-1.2	178	11-6.36
3	11-1.3	179	11-6.37
4	11-1.4	180	11-6.38
5	11-1.5	181	11-6.39
6	Not in Code		
182	11-6.40	S 352	12-8.3
183	11-6.41	353	12-8.4
184	11-6.42	Ord. T13 C 1 S 1	13-1.1
185	11-6.43	Ord. T14 C1	14-1
186	11-6.44	C3 S 50	14-2.1
Ord. T11 C7 S 250	11-7.1	C5	14-3
251	11-7.2	C7	14-4
252	11-7.3	C9 S 200	14-6.1
253	11-7.4	S 201	14-6.2
254	11-7.5	Ord. T14 C11 S 250	16-1.1
255	11-7.6	251	16-1.2
256	11-7.7	252	16-1.3
S 257	11-7.8	253	16-1.8
258	11-7.9	254	16-1.9
259	11-7.10	255	16-1.11
Ord. T11 C9 S 350	11-8.1	256	16-1.12
351	11-8.2	257	16-1.13
C11 S 400	11-9.1	258	16-1.14
401	11-9.2	259	16-1.15
402	11-9.3	260	16-1.16

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City of Boston Code 1975	City of Boston Code 1985	City of Boston Code 1975	City of Boston Code 1985
403	11-9.4	261	16-1.17
404	11-9.5	262	16-1.18
405	11-9.6	263	16-1.19
Ord. T12 C1 S 1	12-1.1	264	16-1.20
2	12-1.2	265	16-1.22
C3 S 50	12-2.1	266	16-1.23
51	12-2.2	267	16-1.24
52	12-2.3	268	16-1.25
Ord. T12 C5 S 100	12-3.1	269	16-2.1
101	12-3.2	270	16-2.2
102	12-3.3	271	16-2.4
C7 S 150	12-4.1	272	16-3.1
151	12-4.2	273	16-4.1
C9 S 200	12-5.1	274	16-5.1
201	12-5.2	275	16-6.1
Ord. T12 C11	12-6	276	16-7.1
C13 S 300	12-7.1	277	16-8.1
301	12-7.2	278	16-9.1
C15 350	12-8.1	279	16-10.1
351	12-8.2	280	16-10.2
281	16-10.3	321	16-15.2
282	16-10.4	322	16-15.3
283	16-10.5	323	16-15.4
284	16-11.1	324	16-15.5
285	16-12.1	325	16-16.1
286	16-12.2	326	16-16.2
287	16-12.3	327	16-16.3
288	16-12.4	328	16-16.4
289	16-12.5	329	16-16.5
290	16-12.6	330	16-16.6
291	16-12.7	331	16-16.7
292	16-12.8	332	16-16.8
293	16-12.9	333	16-16.9
294	16-12.10	334	16-16.10
295	16-12.11	335	16-16.11
296	16-12.12	336	16-16.12
297	16-12.13	337	16-17.1
298	16-12.14	338	16-17.2
299	16-12.15	339	16-18.1
300	16-12.16	340	16-19.1
301	16-12.17	341	16-19.2
302	16-12.18	342	16-19.4
303	16-12.19	343	16-20.1
304	16-12.20	344	16-21.1
305	16-12.21	345	16-21.2
306	16-12.22	346	16-21.3
307	16-12.23	347	16-22.1
308	16-12.24	348	16-23.1
309	16-12.25	349	16-23.2
310	16-12.26	350	16-23.3

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City of Boston Code 1975	City of Boston Code 1985	City of Boston Code 1975	City of Boston Code 1985
311	16-12.27	351	16-23.4
312	16-12.28	352	16-24.1
313	16-12.32	353	16-25.1
314	16-12.33	354	16-26.1
315	16-12.34		
316	16-12.35	356	16-28.1
317	16-12.36	357	16-28.2
318	16-13.1	358	16-28.3
319	16-14.1	359	16-28.4
320	16-15.1	360	16-28.5
361	16-28.6	Ord. T14 C15 S 450	18-1.1 - 18-1.24
362	16-28.7	451	18-3
363	16-28.8	452	18-4
364	16-28.9	453	18-5
365	16-28.10	454	18-6
366	16-29.1	455	18-7
367	16-30.1	456	18-8
368	16-32.1	457	18-9
369	16-32.3	458	18-10
Ord. T14 C13 S 400	17-4.1	Ord. T14 C17 S 500	14-5.1
401	17-4.2	Ord. T15 C1	Chapter 19
402	17-4.3	Ord. T16, C1, 3, 5,	
403	17-4.4	7	20-1 - 20-4
404	17-4.5	C9 S 300	20-5.1
405	17-4.6	301	20-5.2
406	17-4.7	302	20-5.3
407	17-4.8	303	20-5.4
408	17-4.9	304	20-5.5
409	17-4.10	Ord. T17 C1	21-1
410	17-4.11	C3 S 50	21-2.1
411	17-4.12	51	21-2.2
412	17-4.13	52	21-2.3
413	17-4.14	C5	21-3
414	17-5.1	Ord. T18 C1	22-1
415	17-5.2	C3	22-2
416	17-5.3		
417	17-7.1		
418	17-14.1		
419	17-14.2		
420	17-14.3		
421	17-14.4		
422	17-14.5		
423	17-8.1		
424	17-8.2		
425	17-8.3		
426	17-13.1		
427	17-13.2		
428	17-13.3		
429	17-13.4		
430	17-13.5		

CITY OF BOSTON CODE - ORDINANCES

APPENDIX B

DISPOSITION OF ORDINANCES IN CODE

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1976 C. 1	2/1/76	City Council Officers Salary	§ 2-8.3
1976 C. 2	2/24/76	Urban Homestead Program	§ 8-2.8
1976 C. 3	4/28/76	Hawkers and Peddlers License Fee	§ 18-1.8 (8)
1976 C. 4	4/20/76	Police Assignment to Street Work Sites	§ 11-6.9
1976 C. 5	5/10/76	Municipal Golf Course Fee	§ 18-1.7 (8), (9)
1976 C. 6	5/12/76	Fiscal Note Attachment to Certain Legislation	§ 2-11
1976 C. 7	5/20/76	Keeping Animals	§ 16-1.10
1976 C. 8	6/16/76	Municipal Golf Course Fee	§ 18-1.7 (8), (9)
1976 C. 9	7/6/76	Employees' Residency Requirement	§ 5-5.3
1976 C. 10	7/22/76	Building Commissioner Added to Public Improvement Commission	§ 8-7.1
1976 C. 11	9/1/76	Various Department Fees Amended	§§ 18-1.1 (1)—(4), (6)—(25); 18-1.2 (1)—(22), (24)—(31); 18-1.3 (1)—(12), (14), (16), (17), (19)—(22), (25), (26); 18-1.4 (1)—(14); 18-1.5 (1)—(6), (9); 18-1.6 (1), (3)—(19), (21)—(23), (25), (28)—(48); 18-1.7 (1)—(4), (6), (7), (11)—(13); 18-1.8 (1)—(7), (9)—(15); 18-1.9 (1)—(5); 18-1.10 (1)—(4); 18-1.11 (1), (2); 18-1.12 (1)—(9); 18-1.13 (1)—(9), (11)—(22); 18-1.14 (1)—(3); 18-1.15 (1)—(7); 18-1.16 (1), (2), (6), (7), (16), (20)—(24), (26)—(32), (34), (36)—(44); 18-1.18 (1)—(19); 18-1.19 (1)—(10), (13)—(28); 18-1.20 (1)—(4), (6), (7), (9)—(12); 18-1.21 (3); 18-1.22 (1), (2); 18-1.23 (1)—(4), (6), (7)
1976 C. 12	10/6/76	Permit Fee to Sell Frozen Desserts	§ 18-1.6 (43)
1976 C. 13	11/3/76	Prohibiting Refuse Treatment and Disposal Facilities	§ 16-1.21
1976 C. 14	11/8/76	Licensing Abortions and Abortion Clinics	§ 17-1

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Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1976 C. 15	12/15/76	Date Extension for Regulations and Forms	§ 2-12.5
1976 C. 16	12/15/76	Collector-Treasurer Duties as Custodian of Trust Fund	§ 6-3.11
1976 C. 17	12/13/76	License Fee to Carry or Possess Firearms	Superseded by § 18-1.6 (16)
1976 C. 18	12/27/76	Sunday Entertainment License Fee	§ 18-1.19 (26)
1977 C. 1	1/26/77	Various Department Fees Amended	§ 18-1.3 (22)
1977 C. 2	1/26/77	Sunday Entertainment License Fee	§ 18-1.19 (26e,2)
1977 C. 3	4/7/77	Expanding Air Pollution Control Commission	§ 7-2.1
1977 C. 4	5/12/77	Residency of Constables	§ 2-7.2
1977 C. 5	5/18/77	Office of Assistant City Clerk	§ 2-10.4
1977 C. 6	6/6/77	Street Work Permit Amended	§ 11-6.9, e
1977 C. 7	7/11/77	Various Department Fees Amended	§ 18-1.13 (14)
1977 C. 8	9/29/77	Job Lottery	§ 5-5.4
1977 C. 9	10/5/77	Various Department Fees Amended	§§ 18-1.2 (2); 18-1.3 (22); 18-1.6 (39), (43); 18-1.13 (11); 18-1.18 (16)
1977 C. 10	10/12/77	Public Addresses, Vending in Public Grounds	§ 16-19.2
1977 C. 11	10/12/77	Use of Public Grounds	§ 16-19.1
1977 C. 12	10/12/77	Vehicles Interfering with Snow Removal	§ 11-6.43
1977 C. 13	10/12/77	Vehicles Interfering with Garbage Collection	§ 11-6.44
1977 C. 14	10/19/77	Street Work Permit Amended	§ 11-6.9
1977 C. 15	12/14/77	Various Department Fees Clarified	§ 18-2
1977 C. 16	12/30/77	Non-Criminal Disposition of Certain Ordinance Violations	§§ 16-32.4—16-32.6
1977 C. 17	12/7/77	Building Department Fees	§ 18-1.7 (4), (5)
1977 C. 18	1/3/78	Deadline Extension for Regulations and Forms	§ 2-12.5
1978 C. 1	3/13/78	Municipal Lien Certificate Fee	§ 18-1.13 (19)
1978 C. 2	2/15/78	Holdovers	§ 5-5.11
1978 C. 3	3/8/78	City Document Fees	§ 5-5.10
1978 C. 4	3/8/78	Certain Fees Amended	§ 18-1.1 (20), (22), (23)
1978 C. 5	12/1/78	Approval of Funds to Educate Voters	Obsolete
1978 C. 6	6/21/78	Designation of Haymarket-Blackstone Market	§§ 17-3.1—17-3.4
1978 C. 7	6/28/78	Boston 350 Commission Established	Obsolete
1978 C. 8	8/11/78	Police at Polling Places	§ 2-6
1978 C. 9	8/18/78	Licensing for Certain Events	§§ 17-13.2—17-13.3
1978 C. 10	8/25/78	Restrictions on Park Frontages on Commonwealth Avenue	§ 7-4.10
1979 C. 1	2/21/79	City Council Officers Salary	§ 2-8.3
1979 C. 2	1/31/79	Minimum of Officers in Police Department	§ 11-1.6
1979 C. 3	3/7/79	Committee to Study Landfill Site	Obsolete

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Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1979 C. 4	2/21/79	Entertainment Prohibited during Certain Hours	§ 17-13.6
1979 C. 5	2/21/79	Shellfish Permits	§ 16-4.1
1979 C. 6	2/21/79	City Clerk to Notify City Council	§ 2-10.6
1979 C. 7	2/21/79	Mayor's Office Employees Limited	§ 2-7.14
1979 C. 8	3/7/79	Committee to Study Landfill Site Amended	Obsolete
1979 C. 9	3/21/79	Public Access to Computerized Information	§ 5-5.35
1979 C. 10	3/21/79	Repairs on Private Ways	§ 11-6.22
1979 C. 11	3/28/79	Advertising of Elected Officials' Names Prohibited	§ 1-6
1979 C. 12	3/28/79	Positions in Mayor's Office Limited	§§ 2-7.12; 5-5.10
1979 C. 13	4/11/79	Salary of Francis W. Gens	Special Ordinance
1979 C. 14	5/9/79	Corporation Counsel	§ 5-8.1
1979 C. 15	5/9/79	Excessive Salary Increases Abolished	Obsolete
1979 C. 16	5/16/79	Selection Process of Applicants for Temporary Positions	§ 5-5.4
1979 C. 17	5/16/79	Corporation Counsel	Obsolete
1979 C. 18	6/14/79	License Fee to Carry or Possess Firearms	§ 18-1.6 (16)
1979 C. 19	6/13/79	Liability of Auditor and Collector-Treasurer for Ordinance Violations	§ 5-5.7
1979 C. 20	6/10/79	Commissioner of Federally Funded Agencies Salary	§ 5-5.10
1979 C. 21	6/13/79	Department of Federally Funded Agencies	§§ 5-4.1—5-4.5
1979 C. 22	6/13/79	Department of Neighborhood and Human Services	§§ 11-3.1—11-3.7
1979 C. 23	5/30/79	Bonding of Supervisor of Budgets	§ 5-5.6
1979 C. 24	6/27/79	Supervisor of Finance Salary	§ 2-8.3
1979 C. 25	7/25/79	Executive Director of Youth Activities Commission Salary	§ 5-5.10
1979 C. 26	7/25/79	Rules Governing Youth Activities Commission Personnel	§ 5-1.7
1979 C. 27	7/25/79	Duties of Supervisor of Budgets	§ 5-1.5
1979 C. 28	7/18/79	Boston Fire Prevention Code of 1979 Adopted	§ 11-5
1979 C. 29	8/1/79	Regulating Rents and Evictions	§§ 10-2.1—10-2.10; 10-2.14—10-2.20
1979 C. 30	8/30/79	Certain Fees Established	Superseded by Ordinance No. 1981 c. 30
1979 C. 31	9/5/79	Compressed Air, Water Required at Filling Stations	§ 17-2.1
1979 C. 32	10/24/79	Misrepresentation in Job Incentive Programs	§ 17-6
1979 C. 33	10/24/79	Motor Vehicle Management Bureau	§§ 7-8.1—7-8.8
1979 C. 34	10/24/79	Canine Waste Removal	§ 16-12.7
1979 C. 35	10/24/79	Violation Fines for Canine Waste Laws	§ 16-32.3

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Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1979 C. 36	10/10/79	Installation of Fire and Smoke Detectors	§ 21-6
1979 C. 37	12/26/79	Evictions for Condominium Conversions	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1979 C. 38	12/19/79	Bonding of Constables	§ 2-7.2
1979 C. 39	12/19/79	Transportation of Hazardous Materials	§§17-15.1—17-15.10
1979 C. 40	12/26/79	Access to Public Building by Handicapped	§§ 21-4.1—21-4.10
1979 C. 41	11/14/79	Prohibiting Use of the Word "Mayor" in Titles	§ 1-7
1979 C. 42	1/23/80	Acceptance of Office	§ 5-5.1
1979 C. 43	3/12/80	Fiscal Year	§ 6-4.1
1979 C. 44	12/17/80	Preference to City Firms in Purchases	§ 4-2
1980 C. 1	5/3/80	Concerning Claims	§ 5-5.23
1980 C. 2	5/21/80	Oaths of Office Ceremonies	§ 2-1.1
1980 C. 3	5/21/80	Procedure Against Officials Excessively Expending Funds	§ 6-1.11
1980 C. 4	8/6/80	Public Information Officer	§ 5-5.36
1980 C. 5	8/27/80	Rail Transportation of Hazardous Material Requirement	§§ 17-16.1—17-16.3
1980 C. 6	8/27/80	Creating Department of Neighborhood Human Services	§§ 11-3.1—11-3.7
1980 C. 7	8/27/80	Department of Federally Funded Agencies Amended	§ 5-4
1980 C. 8	8/27/80	Provisions for Annual Appropriation Orders	§ 6-1.12
1980 C. 9	8/27/80	Creating Office of Public Service	§ 5-5.36, § 11-3.8
1980 C. 10	9/10/80	Vendors to Itemize Bills Submitted to City	§ 5-5.25
1980 C. 11	9/26/80	Certain Municipal Officials	§ 5-5.10, § 5-5.13
1980 C. 12	9/30/80	Mayor's Salary	§ 2-7.11
1980 C. 13	10/16/80	City Councillors' Salary	§ 2-8.1
1980 C. 14	11/5/80	Municipal Vehicles Mileage	§ 1-4
1980 C. 15	12/30/80	Requirements of Testimony about Appropriations	§ 5-5.31
1980 C. 16	12/30/80	Smoking Restrictions in Public Buildings	§§ 21-5.1—21-5.6
1980 C. 17	3/4/81	Creating Employment and Economic Policy Administration	§§ 8-8.1—8-8.3
1981 C. 1	4/1/81	Space Allotment in City Hall Garage	§ 11-7.11
1981 C. 2	4/8/81	Access to Electronic Data Retrieval Systems	§ 5-1.2
1981 C. 3	5/14/81	Fire Fighting Assistance to Other Cities	§ 11-4.3
1981 C. 4	5/19/81	Operation of Refuse Treatment and Disposal Facilities	§ 16-1.21
1981 C. 5	5/29/81	Playing Fields, Fees	§ 18-1.16 (25)
1981 C. 6	6/12/81	Fee of Auditorium Commission	Repealed by Ordinance No. 1985 C. 12
1981 C. 7	6/12/81	Replacement Fee for Lost Badges, Medallions, Plates	§ 18-1.2 (1)

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1981 C. 8	7/2/81	Regulating Evictions	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1981 C. 9	7/2/81	George Wright Golf Course Fee	§ 18-1.7 (9), (10)
1981 C. 10	7/2/81	William J. Devine Golf Course Fee	§ 18-1.7 (8)
1981 C. 11	7/8/81	Hawkers and Peddlers License Fee	§ 18-1.8 (8)
1981 C. 12	7/23/81	Recombinant DNA Technology Regulations	§§ 17-9.1—17-9.8
1981 C. 13	7/31/81	City Clerk and Other Fees	§§ 18-1.1 (12)—(16); 18-1.2 (16), (30), (31); 18-1.3 (11), (13)—(16), (20), (21), (25); 18-1.4 (14); 18-1.5 (3); 18-1.6 (1), (7)—(14), (34); 18-1.10 (1); 18-1.14 (3); 18-1.16 (37)—(42); 18-1.18 (2); 18-1.20 (11), (12)
1981 C. 14	8/4/81	Fees of City Registrar	§§ 18-1.2 (10)—(15); 18-1.3 (12); 18-1.13 (3), (5)
1981 C. 15	8/4/81	Weights and Measures Fees	§ 18-1.23 (4), (5)
1981 C. 16	8/4/81	Shellfish Licenses	§ 18-1.19 (7)
1981 C. 17	8/5/81	Security Provisions at Municipal Garages	§ 11-7.1
1981 C. 18	9/5/81	Fire Fighting Assistance to Other Cities	§ 11-4.3
1981 C. 19	9/10/81	Creating the Inspectional Services Department	§§ 9-9.1—9-9.7
1981 C. 20	10/14/81	Prohibiting Employees' Political Contributions	Repealed by Ordinance No. 1983 C. 11
1981 C. 21	10/14/81	Establishing Designer Selection Board	§§ 4-1.2—4-1.4
1981 C. 22	12/11/81	Fire Department Fees	§§ 18-1.1 (25); 18-1.2 (17), (21), (25); 18-1.3 (1); 18-1.4 (4), (11); 18-1.6 (3) (1a), (25), (33), (44), (46), (47); 18-1.7 (6); 18-1.8 (1), (10); 18-1.10 (4); 18-1.12 (4), (8); 18-1.15 (7); 18-1.16 (1), (33); 18-1.18 (1); 18-1.19 (17); 18-1.20 (6); 18-1.23 (2), (7)
1981 C. 23	12/28/81	Board of Examiners, Board of Appeals, Fees	§ 18-1.1 (5), § 18-1.2 (22)
1981 C. 24	12/28/81	Collector-Treasurer Fees	§ 18-1.18 (5), (9)
1981 C. 25	12/28/81	Assessing Fees	§ 18-1.1 (1), (8), (10), (11)
1981 C. 26	12/28/81	Target Practice Range License Fee	§ 18-1.20 (2)
1981 C. 27	12/28/81	Board of Election Fees	§§ 18-1.18 (14), (15); 18-1.22 (2)

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Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1981 C. 28	12/28/81	Inspectional Services Department Fees	§§ 18-1.5 (2), (4), (5); 18-1.6 (2), (26); 18-1.7 (4); 18-1.8 (11); 18-1.12 (2); 18-1.16 (27); 18-1.19 (11); 18-1.21 (2)
1981 C. 29	12/28/81	Certificates of Use and Occupancy Fees	§ 18-1.21(1)
1981 C. 30	12/28/81	Inspectional Services Department Fee	§ 18-1.6 (27)
1981 C. 31	12/31/81	Cemetery Division	§ 7-5.2; § 18-1.3 (5)
1981 C. 32	12/31/81	Fire Fighting Assistance to Other Municipalities	§ 11-4.3
1981 C. 33	12/31/81	Directional Sign, Loading Zone, Parking Space License Fees	§ 18-1.4 (5), § 18-1.12 (5)
1981 C. 34	2/3/82	Board of Health and Hospitals Fees	§§ 18-1.2 (2), (3), (6); 18-1.3 (3), (4), (9); 18-1.4 (12), (13); 18-1.6 (39), (41)—(43); 18-1.7 (2); 18-1.8 (8), (9); 18-1.9 (2); 18-1.13 (2), (11), (12), (14), (16); 18-1.15 (1); 18-1.16 (30), 18-1.18 (16); 18-1.19 (19), (28); 18-1.20 (5), (8)
1981 C. 35	2/3/82	Licensing Board, Various Fees	§§ 18 -1.2 (20); 18-1.3 (17), (22); 18-1.5 (6); 18-1.6 (40); 18-1.9 (5), (6); 18-1.12 (3), (7); 18-1.16 (23), (29)
1981 C. 36	7/14/82	Bridge and Tunnels Licensing	§ 16-13.2
1982 C. 1	2/5/82	License to Connect Private Fire Alarm	§ 18-1.16 (33)
1982 C. 2	2/8/82	Residential Parking Permit Fees	Repealed by Ordinance No. 1982, C. 32
1982 C. 3	2/12/82	Cemetery Permit Fee	§ 18-1.3 (3)
1982 C. 4	2/12/82	Public Records Fee	§ 18-1.16 (36)
1982 C. 5	2/18/82	Street and Parkway Occupancy Fees	§§ 16-33.1—16-33.7; 18-1.2 (19); 18-1.12 (9); 18-1.16 (4)—(19); 18-1.18 (6), (8); 18-1.19 (1), (8), (23)—(25)
1982 C. 6	3/8/82	Districts Established for Choosing City Councillors	Repealed by Ordinance No. 1985 C. 25 § 1
1982 C. 7	2/25/82	Augmented Fire Service Availability	§§ 18-11.1—18-11.9
1982 C. 8	3/12/82	City Record Charges	§ 18-8
1982 C. 9	3/26/82	Constable Training Course Fee	§ 18-1.3 (24)
1982 C. 10	3/29/82	Boston Fair Housing Commission Created	§§ 10-3.1—10-3.6
1982 C. 11	4/12/82	Regulating Security Alarm Systems	§§ 11-2.1—11-2.8
1982 C. 12	4/14/82	Augmented Fire Services Availability	§§ 18-11.1—18-11.9

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Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1982 C. 13	5/25/82	Deputy Commissioner of Parks and Recreation Department	§ 5-5.10, §§ 7-4.1, 7-4.2
1982 C. 14	5/25/82	Office of Parking Clerk Created	§§ 6-6.1, 6-6.2, 6-6.4—6-6.10
1982 C. 15	6/7/82	Evictions for Condominium Conversions	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1982 C. 16	6/7/82	Regulating Residential Rents and Evictions	§§ 10-2.1—10-2.6; 10-2.8—10-2.10; 10-2.14—10-2.23
1982 C. 17	6/7/82	Accommodations in Cooperatives	§§ 10-2.1—10-2.6; 10-2.8—10-2.10; 10-2.14—10-2.23
1982 C. 18	6/8/82	Sealing of Scales and Balances Fee	§ 18-1.23 (5)
1982 C. 19	6/11/82	Municipally Owned Buildings, Fees	§ 18-1.8 (4)
1982 C. 20	6/22/82	Fire Fighting Assistance to Other Municipalities	§ 11-4.3
1982 C. 21	6/23/82	Restricting Public Liquor Consumption; Procurement of Alcohol by Minors	§§ 16-12.29— 16-12.31
1982 C. 22	7/6/82	Sealing of Scales and Balances Fees	§ 18-1.23 (5)
1982 C. 23	7/26/82	Drinking or Possession of Alcoholic Beverages	§ 16-12.28
1982 C. 24	8/9/82	Salaries of Members of Board of Appeal	§ 5-5.10
1982 C. 25	8/9/82	Salaries of Board of Examiners	§ 5-5.10
1982 C. 26	8/23/82	Condominium/Cooperative Conversion	§§ 10-2.1—10-2.10; 10-2.14—10-2.23 2.21
1982 C. 27	8/18/82	Common Victualler's License Fee	§ 18-1.3 (22)
1982 C. 28	8/18/82	Parkway or Street Occupancy for Building Construction Fee	§ 18-1.16 (6)
1982 C. 29	10/5/82	Establishing the Office of Public Information	§§ 5-8.1, 5-8.2
1982 C. 30	10/5/82	Establishing the Office of Policy Management	§§ 5-7.1, 5-7.2
1982 C. 31	10/19/82	Commissioner of Public Works Salary	§ 5-5.10
1982 C. 32	10/21/82	Repealing Fee for Residential Parking Permit, Ord. No. 1982 C. 2	
1982 C. 33	11/22/82	Boston Fair Housing Commission	§ 10-3.2
1982 C. 34	12/17/82	Legal Expenses Reimbursed to Employees	§ 5-5.19
1982 C. 35	12/8/82	Community Antenna Television System License Fee	§ 18-1.3 (23)
1982 C. 36	1/4/83	Fire Fighting Assistance to Other Municipalities	§ 11-4.3
1982 C. 37	12/31/82	Rent and Eviction Controls	§§ 10-2.1—10-2.6; 10-2.8—10-2.10; 10-2.14—10-2.23
1982 C. 38	1/26/83	Rodent and Insect Prevention at Construction Sites	§§ 16-31
1982 C. 39	1/26/83	Declaring a State of Emergency	§§ 10-6.1—10-6.7

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1982 C. 40	2/16/83	Use of Public Grounds	§ 16-19.2, § 18-1.16 (36)
1983 C. 1	1/10/83	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1983 C. 2	1/10/83	Use and Occupation of Public and Private Ways	§§ 11-6.19—11-6.25
1983 C. 3	1/19/83	City Council Positions and Salaries	§ 2-8.3
1983 C. 4	2/14/83	Emergency Shelter Commission	§ 10-4.1—10-4.3
1983 C. 5	2/9/83	Signature Requirement for Candidates for District Elective Positions	§ 2-9.1
1983 C. 6	2/24/83	Augmented Fire Services Availability	§§ 18-11.1—18 11.9
1983 C. 7	3/25/83	Position of Legislative Director	§ 2-8.3
1983 C. 8	4/7/83	Duties of Inspectional Services Department	§§ 9-9.8, 9-9.9
1983 C. 9	4/7/83	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1983 C. 10	4/7/83	Tax Delinquent Properties	§ 6-3.1
1983 C. 11	4/23/83	Special Commission on Campaign and Political Finance	Obsolete
1983 C. 12	5/11/83	The Institutional Expansion Board Created	§§ 10-5.1—10-5.6
1983 C. 13	5/13/83	Arson Prevention Commission Created	§§ 9-10.1—9-10.5
1983 C. 14	5/23/83	Fire Fighting Assistance to Other Cities	§ 11-4.3
1983 C. 15	6/20/83	Commissioner of Parks and Recreation	§ 5-5.10
1983 C. 16	6/20/83	Deputy Commissioner of Parks and Recreation	§ 5-5.10
1983 C. 17	6/29/83	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1983 C. 18	6/30/83	Bay Village Historic District Commission	§§ 7-3.1—7-3.11
1983 C. 19	7/8/83	Legislative Director's Salary	§ 2-8.3
1983 C. 20	7/18/83	Special Parking Areas, HP/V Plates	§§ 6-7.1—6-7.3
1983 C. 21	6/29/83	Fire Services Availability	§ 18-11.9
1983 C. 22	7/20/83	Environmental Protection Ordinances	§ 16-32.7
1983 C. 23	8/3/83	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1983 C. 24	8/5/83	Environmental Protection Ordinances	§ 16-32.7
1983 C. 25	8/11/83	Districts Established for Choosing City Councillors	§ 2-9.2
1983 C. 26	8/15/83	Permit for Use of Parks for Demonstrations	§ 16-9.3
1983 C. 27	9/15/83	Salary of Commissioner of Traffic and Parking	§ 5-5.10
1983 C. 28	9/27/83	Legislative Director's Salary	§ 2-8.3
1983 C. 29	9/30/83	City Council Positions and Salaries	§ 2-8.3
1983 C. 30	10/14/83	Boston Residents Job Policy	§§ 8-9.1—8-9.7
1983 C. 31	10/14/83	Salary of Council Liaison	§ 2-8.3
1983 C. 32	10/14/83	Salary of City Messenger	§ 2-8.3
1983 C. 33	12/30/83	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23

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1983 C. 34	12/30/83	Refuse Treatment and Disposal Facilities	§ 16-1.21
1983 C. 36	2/1/84	Safety Measures for Gas Leaks	§§ 17-12.1—17-12.4
1984 C. 1	2/2/84	Reserves for State - Boston Retirement System	§§ 5-6.1—5-6.7; 10-2.1—10-2.10; 10-2.14—10-2.23
1984 C. 2	3/14/84	Parking Fines Amnesty Program	Obsolete
1984 C. 3	3/14/84	Institutional Expansion Board	§ 10-5.1
1984 C. 4	3/14/84	Automobile Safety Devices, Unreasonable Noise	§ 16-26.2
1984 C. 5	3/14/84	Automobile Safety Devices, Unreasonable Noise Penalty	§ 16-26.3
1984 C. 6	4/4/84	Arson Prevention Commission	§§ 9-10.1, 9-10.2, 9-10.4
1984 C. 7	3/14/84	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1984 C. 8	5/1/84	Handicapped Parking Identification Card	§ 6-7.3
1984 C. 9	3/14/84	Arson Prevention Commission	§ 9-10.1
1984 C. 10	5/24/84	Certain Times for Construction	§ 16-26.4
1984 C. 11	6/13/84	Resident Employees Laid Off Last	§ 5-5.5
1984 C. 12	7/3/84	Office of Consumer Affairs and Licensing	§ 15-5
1984 C. 13	7/3/84	Office of Informational Services	§ 15-6
1984 C. 14	7/3/84	Office of Constituent Services	§ 15-4
1984 C. 15	7/3/84	Office of Business and Cultural Development	§ 15-3
1984 C. 16	6/27/84	Boston Human Rights Commission	§§ 12-9.1—12-9.15
1984 C. 17	7/11/84	Boston Human Rights Commission	§§ 12-9.1, 12-9.2, 12-9.9, 12-9.11, 12-9.12
1984 C. 18	7/11/84	Boston Human Rights Commission	§ 12-9.11
1984 C. 19	7/26/84	Divesting Monies from South Africa or Namibia	§ 6-3.7
1984 C. 20	8/8/84	Reorganizing City Council Staff	§ 2-8.3
1984 C. 21	8/8/84	Additions to City Council Staff	§§ 2-8.3, 2-8.4
1984 C. 22	9/4/84	Distribution of Tobacco Products Forbidden in Public	§ 16-2.3
1984 C. 23	10/19/84	City Auditor's Salary	§ 5-5.10
1984 C. 24	10/19/84	Collector-Treasurer's Salary	§ 5-5.10
1984 C. 25	10/19/84	Home Weatherization Program	§§ 15-2.1, 15-2.2
1984 C. 26	10/19/84	Housing Inspection Department	§ 9-1.3
1984 C. 27	10/19/84	Home Repair Program for Seniors	§ 12-3.4
1984 C. 28	10/19/84	Neighborhood Impact Commission	§§ 10-7.1—10-7.3
1984 C. 29	10/26/84	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1984 C. 30	10/26/84	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1984 C. 31	10/26/84	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23

CITY OF BOSTON CODE - ORDINANCES

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1984 C. 32	10/26/84	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1984 C. 33	10/26/84	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1984 C. 34	10/26/84	Rental Housing Equity Ordinance	§§ 10-2.1—10-2.10; 10-2.14—10-2.23
1984 C. 35	10/29/84	Commission on Women	§§ 15-1.1—15-1.4
1984 C. 36	11/28/84	Paternity/Maternity Leave Policy	§ 5-5.20
1984 C. 37	11/30/84	Publication of Ordinances	§ 2-12.3
1984 C. 38	11/30/84	Restrictions on Park Frontages in Brighton District	§ 7-4.10
1984 C. 39	12/14/84	Housing Inspection Department	§ 9-1.3
1984 C. 40	12/21/84	Boston Human Rights Commission	§§ 12-9.1, 12-9.2
1985 C. 1	1/30/85	Construction Restrictions on Commonwealth Avenue	§§ 7-4.10, 7-4.11
1985 C. 2	2/27/85	Notification of Changes in Polling Places	§ 2-3.3
1985 C. 3	4/10/85	Noise Levels at Residential Lot Lines	§ 16-26.5
1985 C. 4	4/19/85	Fees, Fines, License Structure of City	§§ 18-1.1 (3), (7), (18)—(21), (25); 18-1.2 (10), (12)—(15), (22), (25), (28), (30); 18-1.3 (18), (20), (24); 18-1.4 (4), (5), (11); 18-1.5 (7), (8); 18-1.6 (6), (16), (17), (20), (24), (33), (35), (36), (38), (44), (45), (46), (47); 18-1.7 (6), (11); 18-1.8 (1)—(3), (8), (10), (13); 18-1.10 (2)—(4); 18-1.12 (4), (5), (8); 18-1.13 (7), (8), (10); 18-1.14 (2); 18-1.15 (6); 18-1.16 (2), (4), (20), (24), (44); 18-1.18 (1), (16), (20), (21); 18-1.19 (4), (9), (10), (12), (14), (22); 18-1.20 (1), (6); 18-1.23 (2), (7)
1985 C. 5	5/3/85	Rental Housing Equity Ordinance	§ 10-2.19b, 4
1985 C. 6	Disapproved 5/1/85	Abolishing the Inspectional Services Department	Not Codified
1985 C. 7	5/1/85	Prohibiting the Overflow of Dumpsters	§ 16-12.13
1985 C. 8	5/22/85	City Council Staff Director's Salary	§ 2-8.3
1985 C. 9	5/24/85	Overfill of Dumpsters on Commercial Property	§ 16-12.18
1985 C. 10	12/4/85	Disposal and Treatment of Refuse	§ 17-11.8
1985 C. 11	12/19/85	Rental Housing Equity Ordinance	§§ 10-2.1, 10-2.10, 10-2.11, 10-2.22
1985 C. 12	12/20/85	Deletes Use of Auditorium Fee	§ 18-1.1 (24)

APPENDIX B

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1985 C. 13	12/20/85	Motorized Bicycle Operators to Use Headgear	§ 16-15.6
1985 C. 14	1/5/86	Assistance Information Center	§ 10-4.2
1986 C. 1	2/26/86	Amending the Environmental Ordinances	Sec. 1, § 16-12.8; Sec. 2, § 16-1.20; Sec. 3, § 16-32.4; Sec. 4, § 16-32.6
1986 C. 2	2/26/86	Refunding of Building Permit Fees in Certain Instances	§ 18-1.2 (27)
1986 C. 3	5/23/86	Amend Salary of City Councillors	§ 2-8.1
1986 C. 4	5/23/86	Establishing a Division known as the Office of Arts and Humanities, and Reorganizing the Art Commission	Sec. 1, § 15-9; Sec. 2, § 5-2.1
1986 C. 5	5/7/86	Increasing the Salary of the Mayor	§ 2-7.11
1986 C. 6	6/6/86	Amend City Code RE: City Council Staff	§ 2-8.3
1986 C. 7	6/6/86	Establishing the Neighborhood Housing Trust	§ 10-8
1986 C. 8	6/23/86	Amending the Environmental Ordinances RE: Display of Permits	Sec. 1, § 16-12.2; Sec. 2, § 16-32.4; Sec. 3, § 16-32.6
1986 C. 9	7/1/86	Extending Regulations Established by Ordinance with Respect to the Use of Recombinant DNA Technology	§ 17-9.8
1986 C. 10	7/14/86	Further Amending the Environmental Ordinances RE: Graffiti	Sec. 1, § 16-8B; Sec. 1(b), § 16-32.4; Sec. 1(c), § 16-32.6; Sec. 2, § 16-8A
1986 C. 11	7/18/86	Creating the Boston Ground Water Trust	§ 20-6
1986 C. 12	8/12/86	Establishing the Boston Employment Commission	§ 12-10
1986 C. 13	6/24/86	Amending an Ordinance Further Regulating the Operation of Hackney Carriages	§ 16-15.5
1986 C. 14	8/29/86	Fixing the Fee for Permits to Maintain Underground Storage Facilities	§ 18-1.21
1986 C. 15	8/13/86	Establish a Boston Compensation Advisory Board	§ 5-5.10A
1986 C. 16	7/23/86	Concerning Parental Responsibility for Public Consumption of Alcoholic Beverages by Minors	§ 16-12.31
1986 C. 17	9/26/86	Amending The Boston Employment Commission	§ 12-10
1986 C. 18	10/8/86	Amend City of Boston Code (new Section 4-3)	§ 4-3

CITY OF BOSTON CODE - ORDINANCES

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1986 C. 19	12/5/86	Prohibiting Excessive Noise Which Disturbs the Peace of Residential Neighborhoods	§ 16-26.5
1986 C. 20	12/11/86	Amend the Rental Housing Equity Ordinance	§ 10-2.10
1986 C. 21	12/11/86	Relative to Parkways or Street Occupancy Permits for Awnings, Canopies or Marquees	§ 16-1.16 (4)
1986 C. 22	12/17/86	Establishing for a Limited Time a Special Commission to be Known as the Allston/Brighton Commonwealth Avenue Commission	§ 7-10
1986 C. 23	12/19/86	Salary Categories for Certain Offices	Sec. 1-3, § 5-5.10; Sec. 4, § 19-2
1987 C. 1	2/13/87	Creating the Comparable Worth Commission	§ 5-5
1987 C. 2	3/12/87	Reorganizing the Parks and Recreation Commission and the Parks and Recreation Department	Sec. 1, § 7-4.1; Sec. 2, § 7-4.2; Sec. 3, § 7-4.2; Sec. 4, § 5-5.10
1987 C. 3	4/28/87	Establishing a Clean City Commission and the Environmental Ordinance Enforcement Commission	Sec. 1, § 7-10; Sec. 2, § 7-11
1987 C. 4	5/1/87	Regulating the Rents, Eviction and Condominium Conversion Evictions of Mobile Homes and Mobile Home Lots	§ 10-2.1
1987 C. 5	6/18/87	Establishing Districts for Choosing Certain City Councillors and School Committee Members	§ 2-9.2
1987 C. 6	6/24/87	Prohibiting Evictions from Rent Controlled and Decontrolled Housing Units for Purposes of Condominium and Cooperative Conversions	§ 10-2.9
1987 C. 7	6/29/87	Amending the Arson Prevention Commission	§ 9-10.1
1987 C. 8	6/29/87	Amending the Fees Charged for Certificates Relative to Business Names	§ 18-1.2 (30)
1987 C. 9	7/21/87	Repealing Fees, Fire Department	§ 18-1.16 (33)
1987 C. 10	8/10/87	Amending Fee for Permit	§ 18-1.6 (35)
1987 C. 11	9/8/87	Establishing the Neighborhood Jobs Trust	§ 12-11
1987 C. 12	12/22/87	Amending the Rental Housing Equity Ordinance to Require Removal Permits for Mobile Homes and Mobile Home Parks	§ 10-2.13

APPENDIX B

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1987 C. 13	12/22/87	Creating in the City of Boston a Commission for Persons with Disabilities	§ 12-4
1987 C. 14	12/31/87	Promoting Minority and Women Owned Business Enterprises in the City of Boston	§ 4-4
1987 C. 15	12/30/87	Creating the Position of Municipal Affirmative Action Officer	§ 15-10
1987 C. 16	1/13/88	Providing for Child Care Referral for City of Boston Employees	§ 5-1.6
1987 C. 17	1/13/88	Providing for Child Care Facilities	§ 11-7.4
1988 C. 1	4/15/88	Regulating the Sale and Marketing of Replica Firearms in the City of Boston	§ 16-5
1988 C. 2	3/30/88	Ordinance Regarding the Absence of the Mayor	§ 2-1.1
1988 C. 3	4/29/88	Amending City of Boston Code, Ordinances	§ 9-5.2
1988 C. 4	5/20/88	Permits for Removal/Conversion of Housing Accommodations in Lodging Houses and Rooming Houses	§ 10-2.12
1988 C. 5	5/27/88	Concerning Fire Alarm Systems	§ 11-5A
1988 C. 6	5/18/88	Amending City of Boston Code Ordinances RE: City Council Staff	§ 2-8.3
1988 C. 7	6/24/88	Amending Chapter 4 of the Ordinances of 1988 Permits for Removal/Conversion of Housing Accommodations in Lodging Houses and Rooming Houses	§ 10-2.12
1988 C. 8	6/14/88	Amending the Fee, Fine and License Structure of the City of Boston Concerning the Transportation Department	§ 18-1.16 (2)
1988 C. 9	7/15/88	Amending the Rental Housing Equity Ordinance to Require Removal Permits and to Improve Tenant Protections (Removal Permit Ordinance)	§§ 10-2.1, 10-2.2, 10-2.9, 10-2.10, 10-2.11, 10-2.13
1988 C. 10	7/19/88* *See notation on Ordinance	Amending the Arson Prevention Commission	§ 9-10
1988 C. 11	10/14/88	Improving the Rent, Eviction, and Condominium Conversion Protections for Tenants in Governmentally-Involved Housing	§§ 10-2.1, 10-2.2
1988 C. 12	10/14/88	Amending the Comparable Worth Ordinance	§ 5-5

CITY OF BOSTON CODE - ORDINANCES

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1988 C. 13	10/21/88	Amending the Rental Housing Equity Ordinance to Give Elderly and Handicapped Tenants the Right to Own and Live with Pets	§ 10-2.9A
1988 C. 14	10/26/88	An Ordinance (Concerning Weekly Report to be prepared by the Police Commissioner)	§ 11-11
1988 C. 15	11/18/88	Further Amending the Environmental Ordinances	Sec. 1, § 16-1.19; Sec. 2, § 16-4; Sec. 3, § 16-32.1; Sec. 4, § 16-32.6; Sec. 5, § 16-32.6; Sec. 6, § 16-32.4; Sec. 7, § 16-32.7; Sec. 8, § 16-12.2A
1988 C. 16	12/2/88	Amending the Ordinance Establishing the Conservation Commission	§ 7-1
1988 C. 17	1/25/89	Establishing Temporary Emergency Provisions Relative to Disposal of Infectious and/or Hazardous Medical Waste	§§ 16-1.26, 16-32.6
1989 C. 1	2/3/89	Clarifying the Exemption of Massachusetts Housing Finance Agency (MHFA) from Certain Sections of the Boston Rent Equity Ordinance	Sec. 1, § 10-2.1; Sec. 2, § 10-2.2
1989 C. 2	2/3/89	Amending the Boston Rent Equity Ordinance to Clarify Language Concerning Rents in Governmentally Involved Housing	§ 10-2.1
1989 C. 3	2/21/89	Requiring Harmony in Construction Contracts	§ 4-5
1989 C. 4	2/27/89	Concerning Security in Elderly/Handicapped Housing Developments	Sec. 1, [500]; § 9-11.1 Sec. 1, [501]; § 9-11.2 Sec. 1, [502]; § 9-11.3 Sec. 1, [503]; § 9-11.4 Sec. 1, [504]; § 9-11.5 Sec. 1, [505]; § 9-11.6 Sec. 2, § 11-1.7 Sec. 3, §§ 9-11.7; 11-1.7b. Sec. 4, §§ 9-11.8; 11-1.7c.
1989 C. 5	2/27/89	Creating for a Limited Time a Special Commission on Public Education	Obsolete; Not Codified
1989 C. 6	4/26/89	Establishing a Board of Overseers of the Public Library	§ 11-8.1a.

APPENDIX B

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1989 C. 7	5/1/89	Extending the Time for the Production of a Study by the Rent Equity Board Regarding the Eviction Practices and Procedures of the Massachusetts Housing Finance Agency	§ 10-2.2
1989 C. 8	4/12/89	Unlawful to Take Reprisal Against Any Individual Who Testifies Before the Boston City Council	§ 16-34
1989 C. 9	5/31/89	Amending the Boston Fire Prevention Code	Not Codified at this time
1989 C. 10	9/5/89	Establishing the Youth Services Commission	§ 12-6.1
1989 C. 11	12/18/89	Inspection of Roofs and Ceilings Over Certain Swimming Pools	§ 9-9.10
1989 C. 12	1/24/90	Consultants: Employment and Compensation	§ 4-6
1990 C. 1	2/14/90	Amending Cemetery Charges	§ 18-1.3 (6), (7)
1990 C. 2	2/14/90	Amending Payment for Burial Vaults	§ 7-5.3
1990 C. 3	2/21/90	Requiring Lending Information of Municipal Depositories	§ 6-8
1990 C. 4	3/28/90	Amending License to Possess Assault Weapons	§ 18-1.6 (16A)
1990 C. 5	6/6/90	Amending Miscellaneous Fees, Fines and Charges	§§ 6-6.3; 11-5; 18-1.1 (5), (24); 18-1.2 (2), (10)—(15), (23)—(25), (27), (28) (29A)—(31); 18-1.3 (10), (16), (18), (20), (21); 18-1.5 (1A), (2), (4), (5), (7); 18-1.6 (2), (6), (18A), (33), (35), (36), (39), (43), (48); 18-1.7 (A), (4); 18-1.8 (1), (10), (13); 18-1.12 (4); 18-1.13 (1), (5), (10), (11), (14), (19); 18-1.15 (6); 18-1.16 (27), (38)—(41); 18-1.18 (1), (14), (14A), (15), (16); 18-1.19 (2A), (2B), (12), (25), (25A), (28); 18-1.20 (1A), (1B), (6), (6A); 18-1.22 (2); 18-1.23 (4), (5), (7); 18-8
1990 C. 6	6/27/90	Establishing Disruption Mitigation Plan for Road Construction Projects	§ 8-10
1990 C. 7	6/20/90	Authorizing City Clerk to Renew License of Certain Motor Carriers	§ 18-1.10 (1)
1990 C. 8	7/25/90	Hiring of Replacement Workers or Strikebreakers	§ 12-12

CITY OF BOSTON CODE - ORDINANCES

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1990 C. 9	7/25/90	Establishing Recycling Program	§ 7-13
1990 C. 10	9/12/90	Amending Financing Statement under Uniform Commercial Code	§ 18-1.6 (8A)
1990 C. 11	10/3/90	Amending City Document Fees	§ 5-1.10
1991 C. 1	2/14/91	Designating the Chief Procurement Officer of the City of Boston	§ 5-1.3
1991 C. 2	6/26/91	Amending the Rental Housing Equity Ordinance	§10-2.2g, 18-1
1991 C. 3	6/26/91	Further Extending Regulations Established by Ordinance with Respect to the Use of Recombinant DNA Technology	Added to footnote for § 17-9.8
1991 C. 4	8/7/91	Regarding Unreasonable and Excessive Noise	§§ 16-26.1, 16-26.6—16.26
1991 C. 5	10/2/91	Health Inspection Matters and Public Works Matters	§§ 14-5, 16-1.1A, 16-1.2—16.1.9A, 16-1.10A, 16-1.13—16.1.26, 16-2.1, 16-2.4, 16-3, 16-8B, 16-10, 16-12.1, 16-12.4—16-12.7, 16-12.10—16-12.14, 16-12.16—16-12.23, 16-14, 16-15.2, 16-22, 16-23.4, 16-27, 16-28.2, 17-2.3, 17-11, 18-1, Ch. XXII
1991 C. 6	10/2/91	Removing Restrictions on the Nation of Namibia from Ordinances Applying to Transactions Involving South Africa	§ 4-3, 6-3.7
1991 C. 7		Concerning the Registration of Commercial Bicycle Messenger Services and the Licensing of Commercial Bicycle Messengers	§ 17-17.1—17-17.12
1992 C. 1	1/29/92	Security for Student Housing	§§ 9-12.1—9-12.5
1992 C. 2	1/29/92	Repeal Provisions for Administrative Assistants and Secretarial Positions for Office of President and City Councillors	§ 2-8.4
1992 C. 3	2/5/92	Forbidding Possession of Certain Dangerous Weapons in Schoolhouses and in City Hall	§§ 19-1.1, 21-1.1
1992 C. 4	3/2/92	Amending Conditions for Registration of Bicycle Messengers	§ 17-17.4
1992 C. 5	3/23/92	Amending Fees - Certification by City Clerk	§ 18-1.3
1992 C. 6	4/29/92	Adding License and Permit Denial, Revocation or Suspension	§ 16-A1

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Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1992 C. 7	5/18/92	Amending Prohibitions, Penalties and Permits	§§ 16-1.23, §§ 16-1.25, 16-10, 16-10.1, 16-10.2, 16-10.3, 16-10.4, 16-10.5
1992 C. 8	9/1/92	Authorizing Certain Charges in the Haymarket-Blackstone Market	§ 17-3.5
1992 C. 9	9/30/92	Increasing Fines for Large Commercial Trucks Which Park Overnight on Residential Streets	§ 6-6.3
1992 C. 10	9/23/92	Amending Fire Alarm Systems to Provide a Lien for Unpaid Fines	§ 11-5A.5A
1992 C. 11	9/23/92	Security Alarm Systems	§§ 11-2.1—11-2.12
1992 C. 12	12/2/92	Prevention of Sexually Transmitted Diseases	§ 17-13.7
1992 C. 13	12/9/92	Amending Salary of City Council Personnel	§ 2-8.3
1992 C. 14	12/16/92	Amending Minority and Women Owned Business Enterprises	§ 4-4.8
1993 C. 1	2/10/93	Prohibiting Non-Emergency Vehicle Repair on Streets	§ 6-6.3
1993 C. 2	3/31/93	Amending Age Requirement for Drinking or Possession of Alcoholic Beverages	§§ 16-12.29, 16-12.30
1993 C. 3	5/4/93	Smoking in the Workplace	§§ 16-35.1—16-35.7
1993 C. 4	5/12/93	Establishing Nine Electoral Districts	§ 2-9.2
1993 C. 5	6/9/93	Classification of Employees	§ 5-5.10
1993 C. 6	6/23/93	Penalty for Non-Emergency Vehicle Repair on Streets	§ 6-6.3
1993 C. 7	6/23/93	Amends Effective Date of Rental Housing Equity Ordinance	§ 10-2.20
1993 C. 8	8/18/93	Amends Effective Date of Minority and Women Business Enterprise Ordinance	§ 4-4.8
1993 C. 9	10/20/93	Cigarette Sales by Vending Machines Restricted	§§ 16-36.1—16-36.4
1993 C. 10	10/27/93	Amending Rental Housing Equity Ordinance	§ 10-2.1
1993 C. 11	12/8/93	Prompt Release of Information in Cases of Stranger Sexual Assault	§ 11-7.12
1993 C. 12	12/15/93	Family Registration Ordinance	§§ 12-9A.1—12-9A.9
1993 C. 13	12/15/93	Loaned Executive Program	§ 2-7.15
1994 C. 1	3/30/94	Amending Inspectional Services Department	§§ 9-9.1, 9-9.2, 9-9.3
1994 C. 2	3/23/94	Amending Removal of Ice and Snow	§§ 16-12.16, 16-32.1, 16-32.6
1994 C. 3	4/13/94	Adding Monthly Reports on Incidents in Schools	§ 19-1.1

CITY OF BOSTON CODE - ORDINANCES

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1994 C. 4	5/4/94	Repealing Prohibition Expenditure and Investment of Public Funds with Companies Doing Business with South Africa	§§ 4-3, 6-3.7
1994 C. 5	5/25/94	Amending Trustees of Public Library	§ 11-8.1
1994 C. 6	6/8/94	Amending Transfer of Functions between Public Facilities Department and Real Property Department	§§ 8-1, 11-7.1—11-7.13
1994 C. 7	6/22/94	Amending Minority and Women Business Enterprise Ordinance	§ 4-4.8
1994 C. 8	6/22/94	Amending Rent Equity Ordinance	§ 10-2.1
1994 C. 9	6/29/94	Adding Window Falls Prevention Program	§ 9-9.11
1994 C. 10	6/22/94	Amending Boston Residency Ordinance	§§ 5-5.3, 5-10.1, 5-10.2
1994 C. 11	8/10/94	Amending City Council Personnel; Salaries	§ 2-8.3
1994 C. 12	9/21/94	Adding Sale of Propelled Novelty Substances Prohibited	§§ 16-2.5, 16-12.14, 16-32.6
1994 C. 13	10/19/94	Adding Parental School Leave	§§ 12-13.1—12-13.3
1994 C. 14	11/2/94	Adding Display of Certain Paints and Markers	§§ 16-8.2—16-8.4
1994 C. 15	12/21/94	Amending Salary of City Council	§ 2-8.1
1994 C. 16	12/21/94	Amending Salary of Mayor	§ 2-7.11
1994 C. 17	12/21/94	Amending Salary Categories for Certain Officers	§ 5-5.10
1994 C. 18	12/21/94	Amending Minority and Women Business Enterprise Ordinance	§§ 4-4.1—4-4.8
1995 C. 1	3/8/95	Establishes Position of Deputy Commissioner of the Parks and Recreation Department	§§ 7-4.2, 7-4.2A
1995 C. 2	3/29/95	Amends Title of Office Manager to Business Manager	§ 2-8.3
1995 C. 3	4/5/95	Abolishes Position of Auctioneer	§§ 5-5.10, 11-7.3
1995 C. 4	5/4/95	Amends Subordinate Acting Temporarily for an Officer	§ 5-5.31
1995 C. 5	6/7/95	Amends Prohibition Against Loud Amplification Devices in Motor Vehicle Ordinances	§§ 16-26.10, 16-26.11
1995 C. 6	6/26/95	Amends Minority and Women Business Enterprise	§§ 4-4.1, 4-4.2, 4-4.3, 4-4.4, 4-4.5, 4-4.6, 4-4.8
1995 C. 7	12/6/95	Amends Certain Record Keeping Requirements	§ 5-5.3
1995 C. 8	12/20/95	Amends Inspectional Services Department	§§ 2-7.1, 9-1.3, 9-9.1, 9-9.2, 9-9.3, 9-9.8, 9-9.9, 9-9.12, 18-1.2, 18-1.12, 18-1.13, 18-1.19, 18-1.21, 18-12

APPENDIX B

Ordinance Number	Date of Adoption or Approval	Short Title	CBC 1985 Sections
1995 C. 9	12/20/95	Reiterates Protection for Tenants Facing Displacement by Condo minium or Cooperative Conversion	Footnote to § 10-2
1996 C. 1	4/3/96	Amending Rent Equity Ordinance Relating to Manufactured Homes and Manufactured Homes Communities	§ 10-2
1996 C. 2	4/10/96	Adds Nonemergency Repair of Vehicles and Placement of Vehicle Parts on Certain Private and Public Property	§ 16-37
1996 C. 3	4/24/96	Amends Protection for Tenants Facing Displacement by Condominium or Cooperative Conversions	§§ 10-2.1, 10-2.10, 10-2.13A, 10-2.13B
1996 C. 4	5/8/96	Amends Council Personnel Salaries	§ 2-8.3
1996 C. 5	6/10/96	Amends Registry Division Fees	§§ 18-1.2, 18-1.13
1996 C. 6	6/29/96	Transfers Motor Vehicle Management Bureau to the Property Management Department	§§ 7-8.1—7-8.8
1966 C. 7	7/24/96	Amends Office Staff Allocations	§ 2-8.3
1996 C. 8	10/2/96	Amends Registration of Dogs; Adds Regulations for Vicious Dogs	§§ 16-1.9B, 16-1.9C, 16-1.9D, 16-32.3, 18-1.4
1996 C. 9	10/23/96	Amends Rents and Evictions in Mobile Homes and Mobile Home Lots	§§ 10-2.1, 10-2.4
1996 C. 10	11/20/96	Adds Indoor Air Quality	§ 7-14
1996 C. 11	11/20/96	Amends Nonemergency Repair of Vehicles	§ 16-37.1
1996 C. 12	12/4/96	Adds Newsracks	§ 16-38; repealed by 2008 c. 9
1996 C. 13	12/4/96	Amends Handicapped Parking Spaces	§ 6-7.4
1996 C. 14	12/18/96	Amends Minority and Women Business Enterprise	§ 4-4.6
1997 C. 1	3/13/97	Adds Limiting Tobacco Access by Youth	§ 16-40
1997 C. 2	3/27/97	Amends Miscellaneous Fees, Fines and Charges	§§ 18-1.1 (4), (7), (24); 18-1.2 (17), (21), (23), (25), (28); 18-1.3 (1), (10), (18); 18-1.4 (4), (11); 18-1.6 (3), (6), (19), (20), (23)—(25), (29), (33), (35)—(38), (44)—(47); 18-1.7 Par. A, (6), (11); 18-1.8 (10), (13); 18-1.9 (3); 18-1.10 (4); 18-1.12 (4), (8); 18-1.13 (7), (8); 18-1.4 (2); 18-1.15 (6), (7); 18-1.16 (1), (24), (44); 18-1.18 (1), (20), (21); 18-1.19 (12), (17), (22);

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1997 C. 2	3/27/97	Amends Miscellaneous Fees, Fines and Charges (Cont'd)	§§ 18-1.20 (1)—(1B), (6), (6A), 18-1.21(4); 18-1.23 (2), (7)
1997 C. 3	5/14/97	Adds Investment of Public Funds with Tobacco-Related Companies	§ 6-3.7
1997 C. 4	6/25/97	Amends Miscellaneous Fees, Fines and Charges	§§ 12-9A.3b, 18-1.1 (1), (8), (9)—(9C), (10)—(10F), (13); 18-1.2 (11), (14A), (30); 18-1.5 (3); 18-1.15 (4), (5); 18-1.16 (22), (28)
1997 C. 5	7/30/97	Adds Boston Jobs and Living Wage Ordinance	Ch. XXIV
1997 C. 6	8/20/97	Amends Limiting Tobacco Access by Youths	§ 16-40.2d
1997 C. 7	9/10/97	Adds Notification of Employees Regarding Municipal Ethics Law	§ 5-5.40
1997 C. 8	9/10/97	Adds Prohibiting Skateboarding on Certain Public Property	§ 16-12.37
1997 C. 9	10/1/97	Adds Sale of Dangerous Instruments	§ 16-39
1997 C. 10	12/17/97	Adds Prohibiting Aggressive Solicitation	§ 16-41
1998 C. 1	5/20/98	Amends Regulating Employers on Public Construction Projects	§§ 8-9.1; 8-9.2c; 8-9.3b, 1; 8-9.5
1998 C. 2	6/10/98	Amends Salary Ranges	§§ 2-7.12; 2-8.1; 5-5.10
1998 C. 3	6/24/98	Amends Boston Jobs and Living Wage Ordinance	§§ 24-2; 24-3 Superseded by Ord. 1998 c. 5
1998 C. 4	7/22/98	Amends City Council Personnel; Salaries	§ 2-8.3
1998 C. 5	9/2/98	Amends Boston Jobs and Living Wage Ordinance	Ch. XXIV
1998 C. 6	12/18/98	Amends Fines and Fees of the Boston Transportation Department	§§ 6-6.3b, e, f, m, n, o, p, q, w, x, z, ff; 18-1.12, 5
1999 C. 1	2/10/99	Amends Fees for City Documents	§ 5-1.10
1999 C. 2	2/24/99	Adds Prohibition of Laser Pointers	§ 16-42
1999 C. 3	4/28/99	Amends Effective Date of Rental Housing Equity Ordinance	§ 10-2.20
1999 C. 4	6/23/99	Repeals Bicycle Messenger Services and Commercial Messengers	§§ 17-17.1—17-17.12
1999 C. 5	6/23/99	Adds Site Cleanliness Licenses	§ 9-9.8
1999 C. 6	8/10/99	Amends Fines for Unlawful Posting of Signs	§§ 16-23.1, 16-23.3
1999 C. 7	9/15/99	Amends Fire Prevention Code	§ 11-5
1999 C. 8	10/30/99	Amends Condominium/Cooperative Conversions	§§ 10-2.1, 10-2.10, 10-2.13A, 10-2.13B, 10-2.20

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2000 C. 1	3/20/2000	Regarding preparation of food	§ 16-2.6
2000 C. 2	4/19/2000	Regarding crossing gates on school buses	§ 19-1.3
2000 C. 3	9/8/2000	Trespassing on private property	§ 16-43
2000 C. 5	11/20/2000	Relative to banning the sale of mercury thermometers in the city	§ 16-44
2000 C. 6	12/21/2000	Blasting	§ 11-5.2
2000 C. 7	12/21/2000	Amending Minority and Women Business Enterprise Ordinance	§ 4-4.8
2001 C. 1	3/20/2001	Amending the Sale of Dangerous Instruments	§ 16-39.1
2001 C. 2	5/8/2001	Amending Cemetery Fees	§§ 7-5, 18-1.3
2001 C. 3	5/8/2001	Amending City Council Personnel; Salaries	§ 2-8.3
2001 C. 4	7/26/2001	Amending City Council Personnel; Salaries	§ 2-8.3
2001 C. 5	8/6/2001	Amending City Council Personnel; Salaries	§ 2-8.3
2001 C. 6	8/6/2001	Amending City Council Personnel; Salaries	§ 2-8.3
2001 C. 7	8/20/2001	Establishing a Task Force for Implementation	§ 4-3
2001 C. 8	10/16/2001	Amending the Boston Jobs and Living Wage Ordinance	§§ 24-2, 24-6.2, 24-7.4
2001 C. 9	10/16/2001	Prohibiting the Sale, Possession and Use of Fireworks	§ 11-5B
2001 C. 10	12/20/2001	Prohibiting the Carrying of Knives or Similar Weapons	§ 16-45
2001 C. 11	12/20/2001	Amending the Minority and Women Business Enterprise Ordinance	§§ 4-4.6, 4-4.8
2002 C. 1	4/24/2002	Regarding Access to City Recycling Programs for Large Residential Buildings	§§ 7-13A.1—7-13A.9
2002 C. 2	6/5/2002	Revising Certain Fines and Fees of the Boston Transportation Department	§ 6-6.3
2002 C. 3	6/5/2002	Amending Fees and Charges of the Code of Ordinances	§§ 18-1.23, 18-1B.27
2002 C. 4	6/5/2002	Enhance Residential Parking Program	§ 6-6.3
2002 C. 5	6/26/2002	Revising Residential Parking Program	§ 6-6.3
2002 C. 6	8/28/2002	Amending Salary Categories for Certain Offices	§§ 2-7.11, 2-8.1, 5-5.10
2002 C. 7	10/2/2002	Amending City Council Electoral Districts	§ 2-9.2
2002 C. 8	10/2/2002	Vehicles for Hire Licensed in the City	§ 16-15.5
2002 C. 9	10/23/2002	Regarding Discrimination Based on Gender Identity or Expression	§§ 5-5.36, 6-8.4, 10-3.1, 10-3.3, 12-9.1—12-9.7, 15-10.1
2002 C. 10	12/17/2002	Impoundment of Vehicles	§ 6-6.6
2002 C. 11	12/17/2002	Regarding Boston Resident Preference in Housing Programs	§ 10-9
2003 C. 1	5/6/2003	Amending Prohibition of Skateboarding on Certain Public Property	§ 16-12.37
2003 C. 2	5/6/2003	Amending Fees for Obtaining Certified Copy of any Record or Registry in the Custody of the City Clerk and the City Registrar	§ 18-1.3(12)

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2003 C. 3	5/6/2003	Amending Fees for Obtaining a Certified Copy of Births, Marriage, or Deaths	§ 18-1.2(14)
2003 C. 4	5/6/2003	Amending Fees for Obtaining Certificate as to the Record of a Birth, Marriage, or Death	§ 18-1.2(13)
2003 C. 5	5/6/2003	Amending Fee for Certified Copies, Amendments or Termination Statements of a Domestic Partnership Statement	§ 12-9A.3
2003 C. 6	5/6/2003	Amending Fees for the Search of Birth, Marriage, and Death Records	§ 18-1.2(15)
2003 C. 7	5/6/2003	Amending Fees for Entry of Delayed Record of Birth	§ 18-1.2(10)
2003 C. 8	5/6/2003	Amending Fees for Amending, Correcting, or Supplementing Record of the Birth, Marriage or Death	§ 18-1.2(12)
2003 C. 9	5/6/2003	Repeal of Fee for Abstract Copy of Record of Birth	§ 18-1.2(11)
2003 C. 10	5/6/2003	Amending Fees for Receiving a Certificate of Declaration of Marriage Solemnized Outside of Massachusetts	§ 18-1.13(5)
2003 C. 11	5/6/2003	Amending Fees for Entering Notice of Intention of Marriage and Obtaining a Certificate Thereof	§ 18-1.13(3)
2003 C. 12	5/6/2003	Amending Fee for Parking in an Area Designated as No Parking, Zone A	§ 6-6.3(n)
2003 C. 13	5/6/2003	Amending Fee for Parking in an Area Designated as a Loading Zone	§ 6-6.3(m)
2003 C. 14	[5/6/2003]	Amending Fee for Parking in an Area Designated as No Stopping/No Standing	§ 6-6.3(a)
2003 C. 15	5/6/2003	Amending Fee for Parking in an Area Designated as a Bus Stop	§ 6-6.3(r)
2003 C. 16	5/28/2003	Amending Re-inspection of Rental Units	§ 9-1.3
2003 C. 17	5/28/2003	Establishing Noncriminal Disposition of Zoning Violations	§§ 16-46.1—16-46.5
2003 C. 18	6/30/2003	Prohibiting the Sale And/or Installation of a Muffler Cut-out or By-pass and Prohibiting Certain Modifications to Exhaust Systems	§ 16-47
2003 C. 19	7/14/2003	Regarding Unreasonable Noise	§§ 16-26.11, 16-32.4, 16-32.6
2003 C. 20	8/5/2003	Regarding the Appointment and Term of Constables	§ 2-7.2
2003 C. 21	11/10/2003	Amending Fees for Applications for Certificates of Appropriateness/design Approval to the Boston Landmarks Commission and Historic District Commissions	§ 18-1.5

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2003 C. 22	11/18/2003	Amending Lease of Market Stalls by Assistant Commissioner of Property Management	§ 11-7.62
2003 C. 23	12/22/2003	Amending Fee for Commission of Constables	§ 18-1.3(20)
2003 C. 24	12/22/2003	Implementation and Maintenance of a System to Retain all Shopping Carts within a Business Establishment	§§ 16-12.8A.1—16-12.8A.12
2004 C. 1	5/11/2004	Establishing Fees for Boat Slips and Moorings on City Waterways	§§ 16-48.1 —16-48.19, Repealing § 18-1.2(19)
2004 C. 2	6/10/2004	Clarifying the Office of Assistant City Clerk	§§ 2-10.4, 5-5.10(a)
2004 C. 3	6/18/2004	Establishing a Fee for Access to the Boston Fire Department's Master Box	§ 18-1.13
2004 C. 4	7/14/2004	Regarding Responsible Pit Bull Ownership	§§ 16-1.9E.1—16-1.9E.19, 16-32.3
2004 C. 5	7/8/2004	Amending CBC 2-8.3 - City Council Personnel	§ 2-8.3
2004 C. 6	7/14/2004	Prohibiting Use of Gas-Powered Scooters, Powerboards and Mini-Motorbikes on Sidewalks, Public Ways, and Private Ways	§ 16-12.38
2004 C. 7	10/13/2004	Regarding the Impoundment of Vehicles Involved in the Drug Trade	§ 6-6.6(c)
2004 C. 8	11/22/2004	Regarding the Impoundment of Vehicles Involved in Solicitation/Prostitution	§ 6-6.6(d)
2004 C. 9	12/1/2004	Regarding the Identifying Jackets for Valet Parkers	§§ 16-49.1—16-49.9
2004 C. 10	12/13/2004	Amending Certain Provisions of CBC Regarding Tobacco	§ 16-40.2
2004 C. 11	12/13/2004	University Accountability Ordinance	§§ 10-10.1—10-10.8
2004 C. 12	12/23/2004	Extending Protections for Tenants Facing Displacement by Condominium or Cooperative Conversion and Regulating Future Condominium or Cooperative Conversion Pursuant to City's Authority under St. 1983, c.527, as amended	§§ 10-2.10(g), 10-2.20
2004 C. 13	1/3/2005	Regarding Establishing Procedures for the Creation, Maintenance, and Use of Dog Recreation Spaces	§§ 11-10.1—11-10.2(q), 16-1.10A(c), 18-1.4
2005 C. 1	3/30/2005	To Cease Regulation of Public Street Performances	Repealing § 16-12.24
2005 C. 2	4/6/2005	Regarding the Use of False Identification to Obtain Alcoholic Beverages	§ 16-12.30A

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2005 C. 3	5/18/2005	Regarding Protective Custody for Incapacitated Persons	§§ 12-4.1—12-14.7
2005 C. 4	8/24/2005	Amending City Council Personnel Salaries	§ 2-8.3
2005 C. 5	8/31/2005	Regarding Unlicensed, Unpermitted After-Hours Parties	§§ 16-50.1—16-50.7
2005 C. 6	10/5/2005	Amending the Schedule of Fines for Parking Violations	§ 6-6.3
2005 C. 7	10/5/2005	Regarding CORI	§§ 4-7.1—4-7.9
2005 C. 8	12/19/2005	Requiring Property Owners to Remove Graffiti	§ 16-8.5
2005 C. 9	12/19/2005	Amending the Schedule of Fines for Parking Violations	§ 6-6.3
2006 C. 1	3/22/2006	Regarding Local Adoption of the Senior Citizen Property Tax Work-Off Abatement	§ 12-3.5
2006 C. 2	4/5/2006	Regarding the Fees for the Inspection of Smoke and Carbon Monoxide Detector Systems	§ 18-1.19
2006 C. 3	5/3/2006	Amending Salary Categories for Certain Offices	§§ 2-7.11, 2-8.1, 5-5.10
2006 C. 4	6/21/2006	Regarding the Registration of Laboratories	§§ 11-5C.1—11-5C.13
2006 C. 5	8/23/2006	Establishing Delivery Standards for Rental Units	§ 9-1.4
2006 C. 6	8/23/2006	Amending Salary Provisions for the Assistant City Clerk	§§ 2-10.4, 5-5.10
2006 C. 7	10/4/2006	Regarding the Licensing Board	§ 5-5.10
2006 C. 8	10/4/2006	Regarding Unregistered Motor Vehicles	§ 16-30.1
2006 C. 9	11/29/2006	Authorizing the Commissioner of Boston Inspectional Services to Issue Auto Shop Licenses	§ 9-9.9
2006 C. 10	12/13/2006	Regarding Public School Infrastructure Annual Auditing	§§ 19-3.1, 19-3.2
2006 C. 11	12/20/2006	Amending City Council Personnel Salaries	§ 2-8.3
2006 C. 12		Regarding Use of Traffic Control Signal Violation Monitoring System Device	§ 7-7.4
2007 C. 1	4/25/07	Regarding Fire Escape Certification Charge	§ 18-1.6
2007 C. 2	5/2/07	Regarding Imposing a Fine for Vandalism by Graffiti or Tagging	§ 16-8.4
2007 C. 3	6/20/07	Amending City Council Personnel Salaries	§ 2-8.3
2007 C. 4	8/1/07	Regarding Prohibiting Sale and/or	§§ 16-51.1 - 16-51.3
2007 C. 5	8/1/07	Amending the Senior Citizen Property Tax Work-Off Abatement	§ 12-3.5
2007 C. 6	8/8/07	Regarding Regulation of Pedicabs and Party Bikes	§§ 16-12.39, 16-12-40
2007 C. 7	12/12/07	Regarding the Prompt and Complete Removal of Snow and Ice From Sidewalks and Abutting Curb Ramps	§§ 16-12.16, 16-32.1, 16-32.6

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2007 C. 8	10/3/07	Regarding Fine for Parking With an Unauthorized and/or Revoked Resident Parking Permit	§ 6-6.3
2007 C. 9	10/31/07	Increasing Fees for Certain Existing Health Inspection and Licensure	§§ 18-1.1, 18-1.2, 18-1.6, 18-1.13, 18-1.18, 18-1.20
2007 C. 10	12/5/07	Regarding Penalty for Rubbish Disposal	§ 23-22
2007 C. 11	12/12/07	Establishing an Advertising Permit Fee	§ 18-1.1
2007 C. 12	12/12/07	Regulating Access to Roof Areas of Buildings with Residential Units	§ 9-9.13
2008 C. 1	3/3/08	Maintenance of Vacant, Foreclosing Residential Properties	§§ 16-52.1 - 16-52.12
2008 C. 2	5/21/08	Cleaning of Commercial Cooking Hood	§§ 16-53.1 - 16-53.5
2008 C. 3	5/30/08	Trash and Refuse Disposal Fines	§§ 16-32.1, 16-32.6, 23-1, 23-6, 23-20, 23-23, 23-24
2008 C. 4	5/30/08	Hawkers and Peddlers	§§ 16-2.7, 16-32.6
2008 C. 5	6/9/08	Fines for Illegal Parking	§§ 6-6.3, 18-1.16
2008 C. 6	7/16/08	Licensure of Dogs; Prohibition of Dog Renting	§§ 16-1.9C, 16-1.9F
2008 C. 7	8/5/08	Sound Signal Devices	§ 16-26.7
2008 C. 8	8/5/08	Minority and Women Business Enterprise Initiative	§§ 4-4.1 - 4-4.10
2008 C. 9	8/5/08	Newsracks	§§ 16-38.1 - 16-38.11
2008 C. 10	8/13/08	Amending City Council Personnel Salaries	§ 2-8.3
2008 C. 11	9/16/08	Permits for Street Work	§ 11-6.9
2008 C. 12	10/15/08	Fees for Charitable Food Establishments	§ 18-1.6
2008 C. 13	10/28/08	Carrying of Machetes	§§ 16-45.1, 16-45.2
2008 C. 14	10/28/08	Recycling Requirements for Waste Haulers	§§ 7-13.8.1 - 7-13.8.8
2008 C. 15	11/4/08	Public Donation Collection Bins	§ 9-9.8
2008 C. 16	12/12/08	Fees and Charges for Faneuil Hall	§ 18-1.8
2008 C. 17	12/23/08	Departmental Reporting to Retirement Board	§ 5-5.41
2009 C. 1	3/19/09	Prohibiting Salvia Divinorum	§§ 16-54.1 - 16-54.4
2009 C. 2	5/19/09	Requiring City Councilors to File Statements of Financial Interests	§§ 2-14.1 - 2-14.4
2009 C. 3	5/27/09	Sidewalk Cafe Lease Periods	§ 11-6.3
2009 C. 4	6/9/09	Noise Level of Motorcycles	§ 16-47
2009 C. 5	7/15/09	Youth Crime Statistics Reporting	§ 11-1.1
2009 C. 6	7/15/09	Non-criminal Disposition of Sign Violations	§ 16-46.3, 16-46.4
2009 C. 7	8/5/09	Parking in Marked Bike Lane or Marked Shared Bike Lane	§ 16-12.41
2009 C. 8	10/6/09	Increasing University Accountability	§§ 10-10.3, 10-10.4
2009 C. 9	12/15/09	Extending Protections for Tenants Facing Displacement by Condominium Conversion	§ 10-2.20

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2010 C. 2	3/29/10	Prohibiting Parking or Stopping Within Any Pedestrian Safety Zone	§ 16-12.42
2010 C. 3	6/22/10	To Increase Fees for Certain Existing Building Regulation Licenses	§ 9-9.8
2010 C. 4	6/22/10	Increase Fines for Illegal Parking and Increase Fees for Meter Removal and Reinstallation	§§ 6-6.3, 18-1.13
2010 C. 5	6/22/10	Increase Fees for Certain Building Division Inspection and Licensure Requirements	§§ 18-1.2, 18-1.5, 18-1.6, 18-1.7, 18-1.16, 18-1.19, 18-1.20, 18-1.21, 18-1.23
2010 C. 6	8/10/10	Public Works Department	§ 11-6.1
2010 C. 7	10/25/10	Regulating Maintenance of Vacant, Foreclosing Residential Properties	§§ 16-52.3, 16-52.4, 16-52.9
2010 C. 8	11/9/10	Adoption of Procedures for Payment of Certain Municipal Fines	§ 16-55
2010 C. 9	12/22/10	Additional Reporting Requirements of the Boston Employment Commission	§ 12-10.4
2010 C. 10	12/22/10	Building Permit Fees for Construction of Solar Photovoltaic Systems	§ 18-1.2
2010 C. 11	12/22/10	Increase Fees for Lighting of Parks and Recreation Playing Fields	§ 18-1.16
2010 C. 12	12/22/10	Security in Elderly/Handicapped Housing Developments; Crime Prevention Surveys	§§ 9-11.4, 11-1.7
2011 C. 1	3/2/11	Sheet Metal Work Permit Fee	§ 18-1.19
2011 C. 2	3/23/11	Fingerprinting and Criminal History Records Checks for Certain Licenses	§§ 16-A2, 11-1.8
2011 C. 3	3/23/11	Street or Parkway Opening Permit Fee	§ 18-1.19
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2011 C. 5	4/6/11	Mobile Food Trucks	§§ 17-10.1 - 17-10.13
2011 C. 6	4/27/11	Fees for Fire Inspection and Licensure	§§ 18-1.1, 18-1.2, 18-1.3, 18-1.4, 18-1.6, 18-1.7, 18-1.8, 18-1.9, 18-1.10, 18-1.12, 18-1.13, 18-1.14, 18-1.15, 18-1.16, 18-1.18, 18-1.19, 18-1.20, 18-1.21, 18-1.23
2011 C. 7	6/7/11	Senior Citizen Property Tax Work-off	§ 12-3.5
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2011 C. 14	11/9/11	Notification to Fire Department Regarding Discontinuance of Electrical Service to Residential Properties	§ 11-4.8
2011 C. 15	12/14/11	Licensing of Stores That Sell Certain Knives	§ 16-39.4
2011 C. 16	12/21/11	Increasing Cemetery Fees	§ 18-1.3
2011 C. 17	12/21/11	Amending Rental Housing Equity as it Relates to Eviction Procedures	§ 10-2.9
2012 C. 1	4/11/12	Regarding Marriages Performed by Certain City Officials	§ 2-10.1
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2012 C. 3	6/6/12	Over-The Air Devices (OTARD)	§§ 16-58.1—16-58.7
2012 C. 4	6/11/12	Use of City Hall Plaza	§§ 11-7.14, 18-1.3
2012 C. 5	8/22/12	Concussions and Sports-Related Head Injuries Affecting Athletes in Boston Elementary, Middle and Secondary Schools and Certain Athletic Associations	§§ 12-51.1—12.51.3
2012 C. 6	10/31/12	Amending City Council Electoral Districts	§ 2-9.2
2012 C. 7	12/17/12	Amending City Council Personnel Salaries	§ 2-8.3
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